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THE LEAGUE'S BUSINESS

The Municipal Administration Service Helps Hoover's Commission.—Certain members of the advisory board of President Hoover's National Committee on Law Observance and Enforcement have visited the Municipal Administration Service and have had access to its files and reports. As an evidence of the help which the Service has rendered to the Commission, we are reprinting below a letter from Sam Bass Warner, adviser to the Commission, addressed to Welles A. Gray, assistant director:

I wish to thank you most kindly for your services in assisting me to locate additional municipal reports that should be included in the bibliography of the survey of criminal statistics which I am conducting for the National Commission on Law Observance and Enforcement. The whole-hearted coöperation shown by you in placing at my disposal the information which your bureau has gathered, together with your own personal knowledge of municipal affairs throughout the United States, is greatly appreciated.

The work which research and service bureaus such as yours is accomplishing in the betterment of municipal organization and practice, is of great value. It is through the promotion of sound administration policies of experts, that important results are accomplished and advances made in the science of government. I shall watch your continued progress with interest.



A Democracy that Might Work.—With this title Richard S. Childs, president, has contributed a most interesting article to the winter number of *The Century* magazine. Mr. Childs' article is a very forceful presentation of the League's program in words which the man on the street can understand. He emphasizes the progress being made by references to the concrete application in recent years of the theories of government which the National Municipal League was discussing a couple of decades ago. Reprints of Mr. Childs' article will be sent to any member who applies to the League office.

Mr. Childs has also contributed a signed editorial to the February issue of *Public Management* under the title, "A City Manager Truck or a Political Wagon?"



How Business Men Aided a Town.—Howard P. Jones, public relations secretary of the League, has contributed an article on this subject to the February, 1930, issue of *Nation's Business*. This article discusses the work of the Finance Committee of Harrison, New York, which was organized by our treasurer, Carl H. Pforzheimer, and which serves as a non-official citizen advisory committee to coöperate with the town officials. This article will help to advertise the successful experiment of Harrison, N. Y.



County Manager Law Nearing Completion.—Our committee on county manager plan met at the City Club of New York on February 1. The meeting was attended by Professor John A. Fairlie, University of Illinois, *chairman*; Professor Paul W. Wager, University of North Carolina, *secretary*; Richard S. Childs, Luther Gulick, Howard P. Jones, Wylie Kilpatrick, and Colonel H. M. Waite.

The tentative draft of the committee report, drawn up by Professor Wager, has now been subjected to close scrutiny by most of the committee and will soon be mimeographed in tentative form for general criticism. Any member who is interested in this phase of our program can secure for criticism a copy of the tentative draft of the committee report by writing to the League office.

RUSSELL FORBES, *Secretary*.

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EDITORIAL COMMENT

Will Higher Fares Produce the Revenue?

In his Department of Public Utilities in this issue Dr. Bauer raises a question which has been asked before, but which has too often been ignored in rate making. How much will street railway traffic bear? Will the public pay fares high enough to support any theory of valuation or provide any rate of return which the courts can be persuaded to adopt?

In the Baltimore street railway rate case, the Supreme Court approved a return for the entire properties equal to the rate accepted as necessary to induce new capital into the enterprise. The state court had approved a return of 6.26 per cent as adequate. The Supreme Court raised it to 7 per cent "in order to enable the company to compete successfully in the market for money to finance its operations." Yet even 7 per cent is below the average rate which the company has been paying for new money.

The pertinent question, with which the court did not concern itself, is whether any street railway company can make 7 per cent on its investment, valued as the federal courts say its properties must be valued. As Dr. Bauer points out, the Baltimore company has for the past ten years been experimenting with a variety of fares until now it claims a flat ten-cent charge. Even when this has been at-

tained it still remains to be determined whether the new fare is economically practicable. The demand for street car rides is becoming more elastic each day with the development of competing modes of travel. Even the old-fashioned trusts in their heyday of unquestioned monopolistic control found that there were limits to price fixing beyond which they could not go. If the demand for their product was inelastic, the price could be fixed at a relatively high level, but a point was ultimately reached at which the consumer preferred to go without the commodity or to purchase a substitute.

The street railway is becoming dispensable to an increasing number of people. Some declare that it is already obsolete, others are content to say that it is becoming so. Even if neither viewpoint is correct, there can be no doubt that street cars will be less important in the next twenty-five years than they have been in the past.

The unfortunate aspect of the rate controversy has been its emphasis upon valuation and return rather than upon service and economy. Much high-grade mental energy has been devoted to the former which could have been more usefully given to the latter. If coming events indicate that our old friend, the man in the street, will not pay a fare sufficient to support present

valuations or produce a rate of return equal to the market price of new loans, the owners in self-defense will have to reduce costs. In that day street railway operation may be more of a salvage proposition than a fight for higher fares. And the more valuations are inflated now, the more disturbing will the day of reckoning be.

*

Long-Term Expenditure Programs and Prosperity

President Hoover's call to state and local governments, urging that public works be pushed as a relief to unemployment, found few with carefully prepared programs for long-term expenditure which would enable them to obey his injunction that the new building be energetically yet *prudently* pursued. For the past ten years informed people have been emphasizing the importance of capital budgets. A few cities have worked out improvement programs looking ten or fifteen years into the future. City planning has shown many the necessity of financial planning, but the movement is still in its infancy.

Paul V. Better, writing in the *Public Dollar*, published by the United States Chamber of Commerce, says that only three states—New York, Massachusetts, and California—have adopted far-sighted work programs. In others, urgency alone dictates public improvements.

The disturbing factor about President Hoover's appeal for action in public works construction was the stimulus it is apt to give to rash and improvident building. For several years Otto T. Mallery and others have been urging that in times of prosperity states and cities should build up reserves for public works construction to be drawn upon when business shows a depression.

The REVIEW has previously pointed out that this prosperity reserve must be accumulated in accordance with long-term financial programs and the exigencies of the city plan. The building curve is only one element for cities to consider in working out a bond budget. The economies of a sound pay-as-you-go policy and the orderly prosecution of a city plan must also be given due weight.

How effective will be the president's effort to speed up public construction remains to be determined. While its effect may be wholly salutary there are evidences of an unfortunate psychological reaction to the manner in which the estimates were compiled and the methods of publicity which have been followed. If public works are wisely planned, they may be in a measure related to business depressions and thus help to iron out the peaks and valleys of good times and bad times. But after all is said and done such efforts are attacks upon symptoms rather than upon causes which still remain hidden in the business cycle. President Hoover will not have done his full duty until he goes one step further and persuades cities to consider the advantages of bond budgets, if only as a precautionary measure against the next business slump.

*

In the REVIEW for January there was a typographical error in reporting the vote cast by the people of Hamilton, Ohio, on an amendment to the city charter to do away with proportional representation. The correct figures for the vote were 8,611 to 3,157 in favor of retaining proportional representation. The vote for proportional representation is thus seen to be almost three times greater than was erroneously reported.

HEADLINES

COVINGTON, KENTUCKY, is bound and determined to have the city manager plan, and cursed be the law that gets in its way! Following the holding of the manager law unconstitutional for second-class cities, four candidates for commissioner (salary, \$3,600 per annum) each promised to give up \$3,000 of their salaries to employ a manager. Now a manager has been appointed and all goes merrily as a marriage bell.

* * *

Centralized purchasing in California has justified itself on one item alone. Savings on the cost of gasoline over a three-year period for the division of highways will amount to approximately \$382,500, Purchasing Agent J. F. Misphey reports. Through centralized purchasing, the state obtained a base price of 12 $\frac{3}{4}$ cents, including the state tax. This compared with the dealer's cost of 16 cents f.o.b. refinery, and a market station price of 20 cents. Total savings over a two-year period on all items amount to \$3,600,000. The purchasing department cost \$124,400 to operate during this time.

* * *

Interest in reorganization of county government is gradually spreading. Serious movements in this direction are reported from nine counties. These include: Glenn County, Napa County, Placer County, and Santa Barbara County, California; De Kalb County, Georgia; Montgomery County, Maryland; Freeborn County, Minnesota; Buncombe County, North Carolina; and Clackamas County, Oregon. A county home-rule commission has been appointed in California under a recent act to study the subject of county government.

* * *

Rochester has learned a lesson from Cincinnati. The City Manager League there has formulated plans to meet party machine competition with its own ward and precinct organizations. Citizens are gradually learning that it's not sufficient to reform a government—they must stay with it and fight its battles.

* * *

A city-manager enabling act for cities of the second class has been passed by both houses of the Kentucky legislature unanimously.

* * *

A bill permitting counties in Virginia to adopt the county manager plan was scheduled to be introduced in the state legislature during February.

* * *

Further coöperation between business and government is under way in Detroit. A committee of executives of business, industrial, financial and civic organizations has been appointed upon the request of the city council to confer with that body and the mayor in the preparation of the annual budget. George M. Welch, president of the Detroit Board of Commerce, is chairman, and Dr. Lent D. Upson, director of the Detroit Bureau of Governmental Research, secretary of the committee.

Shorter ballots and permanent registration are among reforms being considered for Illinois by the governor's commission on election laws, of which County Judge Edmund K. Jarecki and Maj. Gen. Milton J. Foreman of Chicago, and Judge James S. Baldwin of Decatur, are members.

* * *

The board of directors of Kenosha, Wisconsin, did a good job in 1929 and wanted its stockholders to know about it. A letter to taxpayers, mailed out with every tax statement the first of the year, pointed out that the city's per capita cost of operation and maintenance of its government had been cut each year since the city manager plan was adopted in 1921. In 1929 this figure was \$21.52.

* * *

A committee has been appointed by the governor of West Virginia to draw up recommendations for the revision of the state constitution.

* * *

The movement for reorganization of state government in Oregon seems to be making headway. Hector Macpherson, whose proposed plan of administrative organization was defeated in 1927, is now working for a constitutional amendment, which, if adopted, will reorganize the entire state administration into nine departments. Only three elective officers will remain: the governor, the treasurer, and the secretary of state. The governor will appoint all departmental heads with the consent of the senate.

* * *

The city of Pontiac, Michigan, ran against a snag in its effort to recall the city commission. The State Home Rule Act for municipalities provides that if an official is recalled, his place shall be filled as provided in the city charter. The Pontiac charter declares that his place shall be filled by the city commission. Now Pontiac citizens are asking, "Where do we go from here?"

* * *

Among other interesting achievements recorded for city manager government in Fort Worth, Texas, has been the successful fight of the city to prevent the local gas company from jumping rates. The city spent \$80,000 to win, but saved every gas consumer \$10 per year, or a total of \$340,000 annually.

* * *

Interest in the manager plan seems at a whiter heat than at any time since 1923. Movements are under way at present in 74 cities. Seven of these will vote during March and April.

HOWARD P. JONES

CLEVELAND COUNCIL REMOVES CITY MANAGER HOPKINS¹

BY RANDOLPH O. HUUS

Western Reserve University

The reasons behind Mr. Hopkins' dismissal; the new city manager and the future of manager government in Cleveland. :: :: ::

W. R. HOPKINS, after six years of service, is no longer Cleveland's city manager. He was suspended by the council on January 13, his final removal becoming effective January 22. Cleveland passed into the second phase of its experience with the council-manager plan when State Senator Daniel E. Morgan was appointed to succeed him.

The decisive step was taken amidst political fireworks and parliamentary maneuvers on the part of the councilmen in a meeting which lasted five hours. The booing and cheering of an unusually large and excited audience helped to enliven the occasion. The ouster movement was executed by the Republican regulars of the recently elected council, who mustered a vote of 14 to 11 for Mr. Hopkins' suspension and removal. Thirteen votes were necessary. It is worth noting that only 12 of the 14 were Republicans. The other two were those of Democrats—J. J. McGinty, previously Democratic floor leader, and Dr. F. W. Walz, independent Democrat and bitterly anti-Hopkins.

The removal of Mr. Hopkins was not unexpected. Ever since the fall election the Republican regulars in the old council had considered such action, but the word had been passed that nothing would be done until the new council was installed in January.

¹ See also the note by George Hallett, "The New Administration in Cleveland," on p. 212 of this issue.

When the press and the public realized that Maurice Maschke, political boss, and the Republican regulars were bent on putting Hopkins out there was immediate and severe criticism of the proposed action. The *Press* and the *Plain Dealer* condemned the ouster movement in no uncertain terms and called on the citizens to protest to those councilmen who were for the removal. These newspapers said that it was a purely political move because W. R. Hopkins had increasingly refused to truckle to the political demands of Maschke and the Republican regulars. Hundreds of voters made personal protests to the individual councilmen and a large protest meeting filled the music hall of the public auditorium on Sunday, January 12. Meanwhile the G. O. P. regulars had been holding a number of exhausting secret caucuses to check up their own vote on the ouster and to select a new city manager. Finally agreement was reached on Daniel E. Morgan, but only after Maschke's two earlier choices had failed to satisfy all of the regulars.

HOPKINS DEMANDS A HEARING

As was his right under the charter, Mr. Hopkins demanded written charges and a public hearing. Mayor John Marshall appointed a committee to draw up the charges and the hearing was set for Tuesday, January 21. However, the actual charges as presented were not written up by the com-

mittee. Dr. F. W. Walz, the chairman, admitted that he didn't know who the author was but stated that they conformed to his ideas.

Five charges of varying importance were filed. Summarized, they are as follows:

1. Usurping the policy-determining powers of the council and failing to work in harmony with that body.

2. Failing to exercise due diligence in approving of the purchase price of the St. Clair-Colt playground lots which resulted in penitentiary sentences for ex-councilman L. G. Schooley and his son.

3. Insulting State Senator George F. Bender and the foreign-born groups in Cleveland by making a statement reflecting on his foreign birth.

4. Negligence in the operation and extension of the municipal light plant.

5. Violation of the spirit and letter of the civil service by allowing political activity on the part of administrative employees.

In replying at the public hearing, Mr. Hopkins called attention to the constructive achievements of his administration and defended himself against the charges. One of his most significant statements was that the real reason for his troubles with the council was his refusal to approve the gas franchise they had prepared. The points made in charges 3, 4 and 5 (above) were worthy of little consideration. There was negligence on the part of both Mr. Hopkins and the council as regards charge number 2; however, the measure was a legislative and not an administrative proposal and the controlling members of the council (who approved the above charges) finally voted for this and similar measures where the price charged was questionable. The first charge is the most important and has some foundation. Here again, however, his Re-

publican critics in the council did little or nothing to formulate policies and were constantly interfering with administrative activities. Clearly, the Republican regulars were more interested in "getting Hopkins" than in preparing the charges or listening to his reply.

MASCHKE BEHIND THE OUSTER

Behind the ouster was the decision of Maurice Maschke to get rid of Hopkins. Within the last two years Mr. Hopkins has shown a growing independence of Maschke and the organization. Three department heads of more than the usual ability have been chosen by Mr. Hopkins of late, who cannot be considered as ordinary political appointments; mere partisan job-getters have found the administration too unsympathetic. Personally and politically, too, Hopkins has become a very strong factor in Cleveland and has had the support of numerous civic organizations. He had become a definite challenge to Maschke and the Republican organization.

THE NEW CITY MANAGER

The new city manager, Daniel E. Morgan, is a lawyer of excellent repute. He is a graduate of Oberlin and of Harvard Law School, a past president of the City Club and of the Citizens' League. He served as a member of the 1913 Cleveland charter commission. In 1909 he was elected to the city council and served one term. Defeated for city solicitor in 1911, he dropped out of politics until 1928 when he was elected to the Ohio state senate. Despite the fact that he was a first-termer he became an outstanding member and took a prominent part in working with the Citizens' League in shaping the new and improved state election code.

In his acceptance speech he indicated his intention of giving the mana-

ger plan a fair trial and of attending strictly to his duties as administrator. He is far above the type that the G. O. P. organization has in the past usually selected for their mayoralty candidate when the federal plan was in operation. His selection was influenced by the pressure of public opinion for a capable manager. Nevertheless, Mr. Morgan received his appointment because Maurice Maschke approved and not from any independent group, and he is on record as a staunch believer in the bipartisan system and party regularity. His real test will be the calibre and conduct of the new administrative staff and their assistants, who will be under his direction at the city hall.

CONCLUSION

Municipal conditions in Cleveland today are not unpromising despite the fact that Mr. Hopkins was removed at

the time when he was in the best position to render valuable service. The report that some newspapers in other cities have carried that the city manager is doomed is an unwarranted conclusion. Some of the more promising phases of the present situation are:

1. The calibre and pledges of the new manager.
2. Improvement in the personnel of the civil service commission.
3. The scant majority the Maschke regulars enjoy in the council.
4. The presence of an aggressive and alert council minority.
5. The active opposition of the press and civic organizations to partisan and political meddling with the city government.
6. Badly needed reduction in number of the council committees and their reorganization, together with a revision of the council rules.

THE NEW HOME OF THE CHICAGO CIVIC OPERA

BY JOHN CLAYTON

Although the municipal government had nothing to do with it, Chicago's new opera house is truly a civic enterprise. Mr. Clayton's article should be read as an antidote to Mr. Martin's story last month of the city's financial prostration. :: :: :: :: :: ::

CHICAGO has recently dedicated a new opera house to be the home of the Chicago Civic Opera. The occasion marked a distinct epoch in the advancement of music in Chicago and of grand opera in North America. The opera house is contained in a beautiful modern office building, which rises forty-five stories above Wacker Drive, and also houses a small theatre and 739,000 square feet of space devoted to offices rented to the general public. The Civic Opera House has a seating

capacity of 3,517, and the smaller theatre and concert hall seats about 875. Thus for the first time in the history of these United States, grand opera is housed in a building which will eventually become its very own, and the income from which will provide a fund to eliminate the need of a guarantee in order that grand opera may be given.

HOW IT CAME ABOUT

The building today is the property of the Chicago Music Foundation, and

the development of this organization is nowhere better summed up than in the statement issued by Samuel Insull, president of the Chicago Civic Opera, on the evening of the dedicatory performance.

"Because the people of this city backed an idea with their faith, their credit, and their money," said Mr. Insull, "the permanent home of the Chicago Civic Opera Company will be opened tonight. This opening concludes the first part of an undertaking which has been called 'a dream that came true.' What it marks in fact is a splendid gift from Chicagoans to Chicago and to the world at large.

"To make tonight's opening possible, good citizens of Chicago have lent their money and their faith and their credit to the extent of \$20,000,000. Even in these times, this is not a negligible sum. Half this sum, \$10,000,000, was actually subscribed in money. Ten thousand persons joined in making this subscription (to the preferred stock of the '20 Wacker Drive Building Corporation') and to these are due the grateful thanks of all the people who come to Chicago for the enjoyment of opera. . . .

"By all who have seen Chicago's opera house, we are assured of its beauty and that provision has been made for the comfort and enjoyment of those who will fill its seats; also that it is equipped to give productions of the very highest standards and even to set new standards in operatic achievement. We hope that this is so. But merely to build a beautiful house and give it the best equipment possible was not the fundamental idea of the undertaking. That idea was, and still is, to give opera an abiding place in Chicago, and, through the Chicago Music Foundation, the organization of which has already been announced, to train and educate men and women for the

production of opera and thereby make Chicago a music center worthy of its place in the world's affairs; also to make this adventure self-supporting. We have given it the home and we think we are well along the road to the accomplishment of our second desire."

To the men whose foresight and vision devised the plan whereby Chicago in particular, and the United States in a lesser degree, share in the benefits accruing from this priceless gift, every citizen owes a debt of sincere gratitude and appreciation. While the enterprise is not, strictly speaking, a municipal one—by that we mean that it is not built or developed by city government—it is entirely the product of municipal spirit, for the building and everything it contains was provided by a group of no less than ten thousand citizens who subscribed to the preferred stock in the "20 Wacker Drive Building Corporation," which constructed the building.

HISTORY OF OPERA IN CHICAGO

Grand opera as a Chicago institution dates back to the fall of 1910. In the early years of the city's growth, and prior to the inception of Chicago's permanent opera company, only snatches of grand opera were heard, and these from travelling companies. When the Manhattan Opera Company (Oscar Hammerstein's New York venture) definitely retired—for the reason that there was not room for two permanent opera organizations in New York City—several of those interested in the Hammerstein undertaking, anxious to perpetuate the work begun by this company, approached a group of Chicago and Philadelphia business men, with the result that the *Chicago Grand Opera Company* was organized.

The board of directors included two men who are associated with the Chicago Civic Opera today—Charles G. Dawes and Harold F. McCormick—



A view of the north side of the grand foyer showing the grand staircase which leads to the box floor and thence to the dress circle and balconies

and a number of other prominent Chicagoans and New Yorkers of that day. The company divided its time between Chicago and Philadelphia during its first four seasons.

A number of artists who had been with the Hammerstein company, among them Mary Garden, accepted contracts with the Chicago company. A quantity of the Hammerstein scenery and properties was purchased. Andreas Dippel became general manager of the

new company and Cleofonte Campanini its musical director. Mr. Campanini remained with the company until his death in 1919. The business management was under the direction of Bernhard Ulrich.

After its third season, the company was reorganized with Cleofonte Campanini as general director. The New York backers dropped out at this time and the opera became strictly a Chicago institution.

With the outbreak of the war, the company disbanded, and no opera was given during the winter of 1914-15. The following year, the company was reorganized as the *Chicago Opera Association*, twenty-six men and women making up the list of guarantors. For several years the bulk of the deficit of maintaining the Chicago Opera Association was borne by Mrs. Edith Rockefeller McCormick and Harold F. McCormick.

At the conclusion of the 1921-22 season, Chicago's permanent opera company was reorganized on a basis which made a wider appeal to the community at large and the new company was known as the *Chicago Civic Opera*. Public-spirited citizens of Chicago responded nobly to the appeal for a guarantee fund and before the season opened the company was guaranteed against loss to the extent of \$500,000 per year for a five-year period.

At the end of the first five-year period, a similar amount was raised for a like period, but contributions smaller than \$1,000 were accepted and the list of guarantors increased to approximately twenty-five hundred. At the present time, there are more than thirty-one hundred guarantors, eighty per cent of whom are pledged for sums not to exceed \$100 per year. Practically every Chicagoan interested in the promotion of grand opera is included among the guarantors of the Chicago Civic Opera company today.

MODERN IN EVERY RESPECT

That the Chicago Civic Opera House might incorporate the finest features of any theatre in existence, a group of men were sent abroad to study the leading opera houses of Europe. As a result, every modern device which science has invented for the improvement of stagecraft and the speeding of scene changes is found in the new home of the Civic Opera.

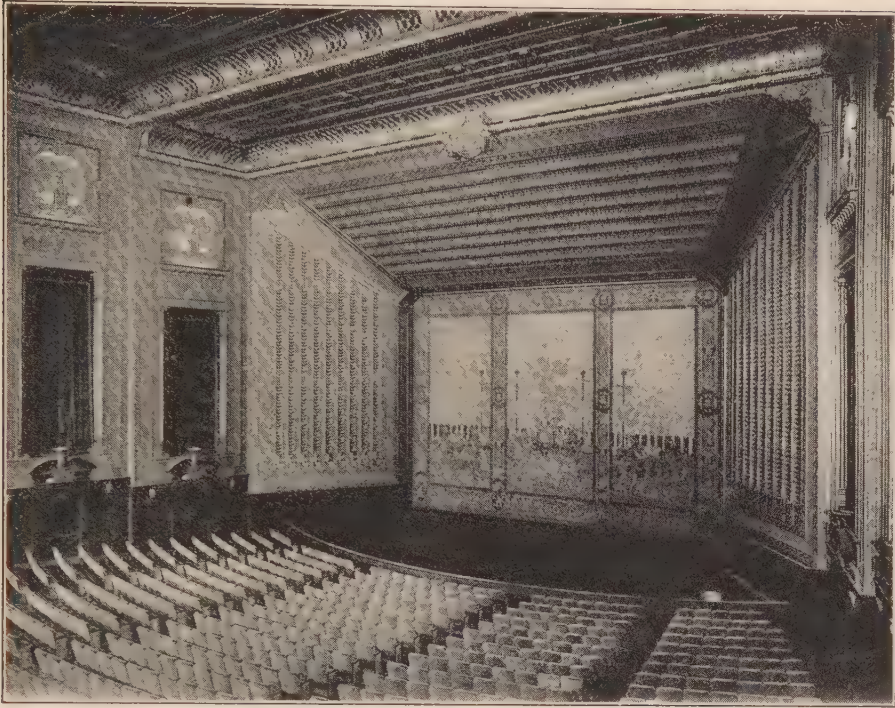
Modern equipment, combined with the great size of the stage, enables the company to obtain effects which can be had in few other theatres in the world today. A system of light control was especially designed. The remarkable scenic effects secured through colored lights in many shadings bear witness to the success of the system.

The theatre itself is beautiful. The color scheme is wrought in varying shades of rose and gold. Various musical instruments combined with a modernized design of laurel wreath constitute the decorative motif. Luxuriously comfortable seats throughout the entire house, a ventilation system which provides fresh air and the correct temperature at all times, and comfortable rest rooms for men and women lend their aid toward the perfection of the theatre as a whole.

Beauty in itself brings out much of the good that lies within us, if we but relax and consign ourselves to its magic spell. In this rose-hued temple of music, so filled with beauty, we can enjoy to the fullest extent the immortal music of the great masters, interpreted by the famous artists who make up the Chicago Civic Opera Company's personnel.

THE CHICAGO MUSIC FOUNDATION

On the eve of the opening of the new Civic Opera House last November, announcement was made of the creation of the Chicago Music Foundation. Organized under a perpetual trust agreement, its trustees are Stanley Field, John F. Gilchrist, Ernest R. Graham, Samuel Insull, Samuel Insull, Jr., George F. Mitchell and Herman Waldeck. Its purpose is the collection of a fund, the income from which shall be used in producing grand opera in Chicago and in educating and training people in the musical art, and in doing other things to make Chicago an opera and musical center.



A view taken from the extreme right side of the new Civic Opera House, indicating the excellent view obtained from every seat

It is the aim of the foundation to establish schools for training artists in all phases of operatic production. The Civic Opera House already has in operation a school of the ballet, under the direction of Laurent Novikoff, who also heads the Civic Opera Ballet and is its *premier danseur étoile*. Courses are offered in this school for all forms of the dance, including work for public school and playground instructors. It is the aim of the management to make this ballet school an art force in the community.

The Chicago Civic Opera European scholarships provide two years of study abroad to successful contestants. The first year is spent in Italy, and the second, contingent upon successful progress in the first, in France and Germany. The contest is open to music students of Chicago and Cook

County who have been studying at least forty consecutive weeks with instructors in Chicago. A requirement is that the contestant possess the necessary attributes for a successful operatic career. Four of these scholarships are available each year.

The high quality of the performances given during the past season has been widely commented upon. Artists and management alike have extended themselves to give nothing less than the best, and have succeeded admirably. Environment has played no small part in this achievement. Greater facilities for staging the various works, more comfortable quarters back stage for the personnel, the splendid acoustical properties of the new house, the many comforts and conveniences provided for opera patrons, all have combined to inspire each individual artist.

MANAGER CITIES IN ACTION

II. TWO NEW YORK CITIES

BY ERNEST S. BRADFORD

Dr. Bradford continues his report on the workings of the city manager plan. The first installment appeared in our February number. ::

AUBURN

AUBURN, N. Y., with a population of about 45,000, voted to put the city manager form of government into effect January 1, 1920. The charter as adopted did not contain nonpartisan provisions, which would prohibit the name of a political party on the ballot and provide for the nomination of councilmen on the petitions of a certain number of citizens; so the first new council in Auburn was elected under the old party machinery, according to the former custom. Auburn is normally overwhelmingly Republican, and the organization men elected to the council proceeded to choose, as their first city manager, a man described by the editor of a local paper as an "old political war horse." His handling of the position of manager along the old political lines disappointed those who had hoped to see a businesslike and economical administration. When, four years later, the second council reelected the same man as manager, dissatisfaction became more pronounced. The situation was seized upon by the opponents of the manager idea to urge an entirely new charter; and the proposal for a new charter commission, which went to vote November 2, 1926, carried by a bare majority (5,997 for, 5,179 against).

The new commission, five months later, brought in the proposed new charter, which provided for a mayor-council government not unlike that

under the old form. This, however, failed to command public confidence, and it was rejected, June 30, 1927, by a vote of 3,675 to 4,713. The voters then turned to the Democratic party, which, led by a son of the late Thomas Mott Osborne, promised to amend the charter so as to abolish party names on the ballot, and to give an nonpartisan administration. Osborne was elected mayor in the fall of 1927, together with two Democratic councilmen.

The new council at once discharged the politician-manager, and selected as the new manager an engineer from the Lehigh Valley Railroad, John F. Donovan. He retained the previous corporation counsel and the city engineer, but replaced with more capable officials several incumbents whom he described as "too fat and lazy" to handle their jobs. The budget system he reestablished, under which it is possible to ascertain at any time just how much money is left for each division of the city's work; and gradually he has installed businesslike methods in most of the departments.

The old city hall is to be replaced with a new structure, the gift to the city of two public-spirited former citizens, daughters of former Mayor David M. Osborne. This is not to be credited to the city manager government, however, except in so far as the donors might have been actuated by a feeling of greater confidence in the ability of the new government to han-

dle more wisely, and with better attention to proper upkeep, a gift of this size and importance.

The council is now undertaking to amend the charter as promised, and has adopted a resolution providing for a referendum in the fall of 1930 on the question of nonpartisan elections of mayor and councilmen. The effect of this, if carried, will be to permit voters to select desirable candidates without regard to their national political affiliations. In reply to an inquiry as to the correctness of a report that Auburn had given up the manager form, the mayor, in a letter dated October 7, 1929, states that "the city manager form of government is now in full effect and operation." He quotes, as the characteristic note of the new manager charters, and as a guide for cities under manager form, a sentence written years ago by Joseph H. Choate: "Questions of national and state politics have nothing to do with the honest, expeditious and prudent administration of municipal affairs."

NEWBURGH

Newburgh-on-Hudson, only sixty miles north of New York City, was one of the first municipalities in the state of New York to adopt the city manager plan of government. It went into effect in 1916, and is today so firmly established that I heard no one speak of going back to the old mayor-council plan.

When Newburgh first adopted the new charter there were few trained city managers; now there are more than four hundred. The first city manager of Newburgh—picked from the park department of a larger city on the suggestion of an influential councilman, a large manufacturer—failed to measure up to the job and resigned at the end of six months. The second manager, Dr. Henry Wilson, made an excellent

record, handling the city's affairs with force and capacity, and served from July, 1916, until death removed him in 1919. He was followed by James Miller, a local man, who served for the rest of the term with considerable success. He endeavored, however, to reorganize and consolidate the volunteer fire departments of the city, reducing nine companies to six, the accomplishment of which stirred up a tempest in a teapot and brought him the opposition of a strong social group. When the time came to elect the next council there were enough new members elected to put in a new manager, W. Johnston McKay, against the opposition of the local newspaper and a strong group in the council, who favored retaining a man whom they regarded as satisfactory. McKay, a real estate dealer, proved to be a capable and vigorous executive, and served also for four years, when he decided, at the end of the term, to resume his private business. The manager idea was thoroughly established in the public mind and McKay was and is a strong advocate of the city manager plan under which, he believes, the city can accomplish results otherwise impossible.

W. T. McCaw succeeded McKay, but a disastrous explosion in the sewers of Newburgh, in the fall of 1929, resulted in a change.

The conditions which led to the explosion were most unusual. The sewers, dating back many years, empty into the Hudson River. When the tide came in, one day in September, 1929, the water backed up into the sewers, apparently compressing sewer gas which had been made unusually inflammable, it is believed by some, by gasoline and other wastes of factories and cleaning establishments. This gas, exploding, blew up sections of streets and the floors of stores in the

heart of the business section, and wrecked a considerable part of the retail area. A similar explosion of sewer gas had occurred almost exactly a year previous, in September, 1928, and the council, holding the city manager responsible for failure to change sewer conditions after the first explosion, removed McCaw and asked the former incumbent, W. Johnston McKay, to become manager once more. McKay is manager at this writing.

"The principal result, under the managers, has been to give the city a dollar's worth of service for every dollar expended," says the editor of the *Newburgh News*. "There is no doubt that this plan is better than the mayor-council form, for the reason that one man is responsible for managing the city's business. Newburgh has had average men in its council, probably of somewhat higher grade than before, under the system of electing them at large."

NONPARTISAN BALLOT NEEDED

In neither Auburn nor Newburgh is there provision as yet for nonpartisan nominations and elections, a requirement which is regarded in those cities which have it as a powerful factor in making the government responsive to the needs of the community as a whole. The result has been that in Auburn, for example, the earlier administration of the new charter was as frankly partisan (in this case, Republican) as under the previous mayor-council plan; and while the present council is less partisan, it is frankly Democratic. If the proposed amendment is favorably voted on in the fall of 1930, it is likely that the partisan spirit will give way to one more broadly civic in character, as in other cities with nonpartisan elections. The other leading features of the manager charters—short ballot, election of councilmen at large, and single appointive administrative head—are already provided.

FRAUD AND ERROR IN CHICAGO REFERENDUM RETURNS¹

BY DAVID M. MAYNARD

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While Chicago has special compulsory referenda only, a considerable number of measures are voted upon. Because of defects in the election system, carelessness and corruptness on the part of the election officials, gross errors creep into the official referendum returns. Changes in the election law would help to eliminate this. :: :: :: ::

THE referendum has been used in Chicago in some form for the past seventy-five years. All state and city bond issues, all propositions providing for the annexation of territory by the city of Chicago, all modifications of

¹ Part of a study on "The Referendum in Chicago" made under the direction of Professor H. F. Gosnell, University of Chicago.

the form of city government in Chicago, all amendments to the state banking laws, all questions relating to the Illinois and Michigan Canal, and all state constitutional amendments must be submitted to the voters. The state legislature, by special act, has submitted certain other measures to a popular vote. The number of

propositions voted upon has increased greatly during the last twenty-five years. In the April election of 1928, thirty-two measures were submitted to the Chicago electorate, already overburdened with a long candidate ballot.

The Illinois election laws which regulate the casting and counting of proposition ballots in Chicago are defective in several important respects. There is no limit to the number of bond issues which the local governing bodies may propose. Since 1900, separate proposition ballots have been supplied by the government. These have to be counted by the precinct officials in addition to the difficult candidate ballots. The law requires that the precinct officials must be chosen from the residents of the precinct in which they serve, and they must be divided between the two major political parties. These restrictions make it almost impossible to find honest and efficient election officials in certain parts of Chicago.

"Who gives a damn about the referendum ballot?" This question was not invited from a precinct official of a notoriously corrupt ward, but came from an employee of the city. It expressed a cynical judgment born of years of practical experience in dealing with Chicago elections.

In the election of November 5, 1929, the "bloody" twentieth ward went nearly two to one in favor of an amendment to the Municipal Court Act, while the residential seventh ward went four to three against the measure. An examination of the returns for the twentieth ward showed that there were patent frauds and errors in ten out of the thirty-two precincts in the ward. When these were subtracted, the remaining vote stood four to three against the measure, or practically the same as in the seventh ward.

An examination of the books at the election commissioners' office showed that this condition has existed for many years. An intensive analysis was made of the election of April, 1927. This election was selected because student observers had reported on the treatment of the "little ballot" in twenty-one precincts, and because it was thought that interest in the mayoralty election would detract attention from the sixteen measures on the proposition ballot. Since there were thirty-two figures for each of the 2,300 precincts, this meant the analysis of some 73,000 figures. The following types of suspicious returns were discovered: failure to record negative votes, an identical number of yes and no votes on each of the sixteen measures, all votes ending in round numbers, an unduly large total vote cast on the propositions. A tabulation of these figures showed that the returns for 592 precincts, or 25 per cent of the total number, were clearly fraudulent. In twenty-three cases there were more votes cast on the measures than there were voters in the precinct. In one of these the records showed that each voter had voted both yes and no on each of the propositions. Below are some of the actual figures found on the books. They speak more eloquently than words.

Although most of the above examples of fraud seem self-evident, there was still the embarrassing question which could not be answered, "How do you know that the votes were not cast in that way? You haven't seen the ballots." Complete proof of false returns would require nothing short of a recount of all the ballots. The election law provides that no ballot box shall be opened without a court order. The procedure of a recount is a costly one and is usually confined to candidates in doubtful precincts.

MEASURES

	1	2	3	4	5	6	7	8	9
Ward 20 Precinct 10	Yes No	372 0	372 0	372 0	372 0	372 0	372 0	372 0	372 0
Ward 16 Precinct 19	Yes No	245 111	245 111	245 111	245 111	245 111	245 111	245 111	245 111
Ward 32 Precinct 26 (Total vote 309)	Yes No	317 317	317 317	317 317	317 317	317 317	317 317	317 317	317 317

There has never been a general recount of any referendum ballot in the history of Chicago. The magnitude of the task makes any judge hesitate to give an order unless the results of the election are clearly in doubt. A rough estimate shows that it would take twenty men about a year and a half at a cost of at least \$30,000 to make an accurate recount of the sixteen-measure ballot mentioned above.

Fortunately, with the coöperation of Judge Edmund K. Jarecki, a private recount was made possible of a very good sample of precincts for the election of November, 1926, at which six measures were voted upon. The proposition ballots in fifty-six precincts were carefully recounted under the supervision of the author. A comparison of the percentage returns in these precincts with those for the entire city showed that the sample was an excellent one. Practically all the wards in the city were represented. The recount showed that in one-half of these precincts there was an appreciable discrepancy between the number of votes cast on a measure and the

number of votes recorded. In one-fourth of the cases this difference was so great as to mark the returns as grossly fraudulent.

Furthermore, it was found that these errors were not compensating but cumulative. This fact is particularly important in Illinois where a constitutional amendment requires a majority of all voting at the election, and not merely a majority of those voting on the issue. The extent of the distortion of the popular will by the precinct officials is shown in the table given below.

That is, the "official" figures are in error in this case from .6 per cent to 9.1 per cent and the two bond measures involving the expenditure of eighteen million dollars were within a few tenths of a per cent of being defeated. This reversal of the "will of the electorate" actually did occur in forty (8.4 per cent) of the 336 individual recounts. In short, the examination of the ballots themselves confirmed the conclusion reached by the previous survey of the election books.

Students have been sent out from

PER CENT IN FAVOR OF THE MEASURES IN THE 56 SAMPLE PRECINCTS

	Volstead Mod.	I. & M. Canal	Constit. Amend.	Road Bonds	Jail Bonds	Daylight Saving
Official count	72.3	73.3	54.7	59.0	61.0	65.3
Recount	71.7	74.7	50.8	50.5	51.9	61.3
Difference	.6	1.4	3.9	8.5	9.1	4.0

time to time to investigate the treatment of the "little ballot." Four interesting processes have been observed. In one precinct a bundle of 100 ballots was counted and the rest estimated. In a second case the official divided the "yes" and the "no" ballots on the first question into two piles and estimated the result. In a third precinct the officials carefully counted the first question and carried over the same figures for the rest of the ballot. In the fourth case a man was observed stringing the ballots on one side of the room, while an official was "making out" the tally sheets in a far corner. During a recent election a team of reliable watchers was sent to a precinct of the twentieth ward with instructions to insist upon an accurate count of the referendum ballot. Out of the 146 names in the poll books, twenty-five voted on the little ballot. In the adjacent precinct, without watchers to guide the count, out of 206 names on the poll books, the record showed 196 voting on all measures!

The indifference of the election officials and precinct watchers with regard to the outcome of the "little ballot" vote, combined with fatigue after a tedious day at the polls, probably accounts for many of the present

wide discrepancies between the vote and the tally in Chicago precincts. In other cases the results can only be explained by ignorance, stupidity, or downright crookedness on the part of the precinct election officials. The remedy here lies in the adoption of separate counting boards, a central count, or the use of voting machines.¹ Granted that the voting machine is not fraud proof, nevertheless in connection with referenda it would provide, outside of rare exceptions, exact and accurate figures of the vote recorded. Furthermore, as the amount of fraud increases with the length of the ballot, a provision to limit the number of measures presented at a given election would tend to produce more accurate returns. Finally, the method for selecting precinct election officials needs to be radically changed. Residence in the precinct should not be required of these officers nor should their appointment be controlled by the party committees. Referendum votes are sometimes an excellent index of public confidence or lack of confidence in a given administration. The example of Chicago shows the need for safeguarding this instrument of direct legislation.

¹See forthcoming report of the National Municipal League on a Model Election System.

THE MUNICIPAL CABINET IN THE UNITED STATES

BY J. OTIS GARBER

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Should mayors and city managers make use of the "cabinet" system in dealing with subordinate heads of departments? :: :: ::

THE introduction of the short ballot and the centralization of the responsibility of department heads to a chief executive in American cities has made possible a municipal cabinet. It was the purpose of this study to ascertain the similarities, if any, of the municipal cabinet system to the presidential and English cabinet systems.

Two types of cities were chosen—council-manager and strong-mayor. The larger cities of each type were picked. Cleveland, Cincinnati, Kansas City, Norfolk, Dayton, and Grand Rapids comprise the council-manager group. New York, Boston, Detroit, St. Louis, Denver, Indianapolis, and Toledo were selected as cities where the mayor chooses his department heads without confirmation of the council.

PRACTICE IN MAYOR-COUNCIL CITIES

A study of the accompanying table will reveal the fact that in no two cities of the mayor-council type is the same practice followed. It is obvious that an effective cabinet meeting is impossible in cities like Boston and Detroit where there is a large number of departments, many of them administered by boards. In these cities as well as in New York, there is no collegiate cabinet. The mayor directs the different departments by individual instructions. The mayor is permitted to sit with the council in all cities of the type studied; yet he seldom does so except in Toledo

and Indianapolis. Thus it is only in these two cities that a serious attempt is made to bridge the gap between the legislature and the executive.

The department heads also sit in council meetings in these two cities, although, of course, they are not members, and have no vote as do the members of the British cabinet. But it has been found, especially in Toledo, that their presence in council and committee meetings is a great benefit in informing the council as to the administrative needs of the city. This approximates the English borough plan of having the permanent expert department heads at the meetings of the various council committees which direct their particular departments. Thus the administration is under the control of the laity, but subject to the influence and advice of the department heads who have a professional interest in this particular branch of administration.

The frequency of cabinet meetings also indicates whether the department heads really function as a collegiate body. Mayor Walker of New York has called his department heads together only a few times. Ex-Mayor Smith of Detroit during the first year and one-half of his term called the directors together once to announce his policy with respect to economies in the city government. Under Mayor Lodge cabinet meetings were more frequent in Detroit. The Indianapolis

THE RÔLE OF THE CABINET IN TYPICAL CITIES

Mayor-council cities	Number of departments	Directed by		Does mayor sit with council?	Do department heads sit in council?	Are cabinet meetings held?	Frequency of cabinet meetings
		Board	Single head				
Boston.....	32	13	19	No	No	Rarely	Seldom
Denver.....	4	0	4	No	No	Yes	On call
Detroit.....	19	14	5	No	Yes—but no voice	Yes	No set time
Indianapolis.....	10	4	6	Yes	Yes	Yes	Monthly
New York.....	15	4	11	No	Seldom	Rarely	No set time
St. Louis.....	6	0	6	No	Occasionally	Yes	Twice a week
Toledo.....	5	0	5	Yes	Yes	Yes	Weekly
City-manager cities				Does manager sit with council?			
Cincinnati.....	18	3	15	Yes	Occasionally	Yes	No set time
Cleveland.....	7	0	7	Yes	Yes	Yes	Bi-weekly
Dayton.....	5	0	5	Yes	No	Yes	Bi-weekly
Grand Rapids.....	4	0	4	Yes	Yes	Yes	Weekly
Kansas City.....	9	0	9	Yes	No	No	
Norfolk.....	5	0	5	Yes	Occasionally	No	

practice is to hold monthly meetings of the cabinet. Only Toledo and Denver report cabinet meetings held at least once a week. So we see that we rarely find the cabinet existing as a collegiate body.

PRACTICE IN CITY-MANAGER CITIES

We might expect to find a "cabinet" system in the city-manager cities if it is found anywhere, for the reason that there are usually fewer departments, all directed by single heads. This system has the proper functional organization for a cabinet system. But do we find it?

The city manager as the council's executive expert attends council meetings in all these cities to advise and to give data required in determining the policy of the council. As the general supervisor of the city, he is the connecting link between the council and

the administration. His is the entire responsibility for all the activities of the various department heads. So it is as natural to expect him to take part in council meetings as it is for the manager of a manufacturing concern to be present at meetings of his board of directors.

The department heads of two of the cities studied (Cleveland and Grand Rapids) sit in the meetings of the council. The directors of departments in Cincinnati attend meetings at the request of council or the city manager. In Norfolk the city attorney attends "to pass on legal phases," but other directors are called in only when technical information is desired. In Kansas City and Dayton they do not attend. If the city manager has a technical knowledge of each department he may supply the required information to the council himself; or he

may present material to the council on the advice of the directors of departments, who are presumed to be experts in their lines of endeavor. It would seem that since the city manager is the apex of the entire hierarchy of the administration of the city, his presence in council should be sufficient to supply the link between legislation and administration without the aid of the directors.

For the city manager is not *primus inter pares* as is the English prime minister. He is the chief; the directors are his subordinates. They are appointed by him and responsible to him. He in turn is responsible to the council, which represents the people. So there is a hierarchy of indirect responsibility from the people to the lowliest city employee. However, we cannot agree with Miss Ellis¹ that in so far as indirect responsibility to the people is concerned, the city manager plan resembles the English cabinet system. There are these important differences: in the city manager plan responsibility is centralized on one man instead of being placed on a group of men as individuals and as a body; furthermore, the city manager and his subordinates are one step removed from the people, and cannot be directly repudiated through failure to be reelected. However, the city manager can be, and in some instances has been, repudiated by the election of a council pledged in advance to his removal, just as the election of a majority of members of the House of Commons leads to the resignation of the British cabinet. Another important difference is that the council cannot be dissolved by the city manager if it fails to support him; he must resign. The British cabinet may ask the king for a dissolution of

parliament for a new election if it feels that the people will support it as against the House of Commons. But it is not the theory nor the practice for the city manager to take a hand in elections. He is not a part of the council and so does not have the same relationship to it and to the people as does the British prime minister and his colleagues. He is employed by the council.

As to cabinet meetings, Cleveland and Dayton have bi-weekly sessions, while Grand Rapids has weekly discussions. This system was used at Grand Rapids for eight years under the managership of Mr. Locke, who says it produced good results. The managers of Dayton and Cleveland are also satisfied that time spent at informal gatherings of the department heads is very profitable. However, the managers of both Kansas City and Norfolk are convinced that such meetings are futile. Says Mr. McElroy of Kansas City, "I started the system of having all of the department heads together and discussing matters generally, but I came to the conclusion that that would not obtain any real practical results. Too much time was taken up with general discussions. It took too long to get down to business. I believe better results can be obtained by talking directly with the heads of each department, and you can thereby accomplish more in a fifteen-minute discussion than you can in a conference of an hour and a half when several are taking part in it. The cabinet system, in my notion, is all right for talking politics, but not very satisfactory for talking business." Mr. Truxton of Norfolk says, "It is my opinion that a great deal of valuable time is lost by such procedure, and group discussions are only conducted on specific matters requiring such action." Mayor Nichols of Boston says, "It is a waste

¹E. D. Ellis, "The City Manager as a Leader of Policy." THE NATIONAL MUNICIPAL REVIEW, Vol. XV, p. 201.

of valuable time. Individual conferences give better results."

Cabinet meetings are held in Cincinnati occasionally for discussion of administrative policy, but at no definite time. Undoubtedly it is difficult to get a full meeting with fifteen cabinet members. City Manager Sherrill states that it is easier to discuss important policies with small groups than with all fifteen members, many of whom have no interest in the matters up for discussion. It is worthy of note that the members of three important branches of administration—the health board, park commission, and recreation commission—are not under the control of the city manager. The mayor appoints the members of the first two, and one person on the recreation commission. The other two members on the latter commission are appointed by the park commissioners and the board of education.

Undoubtedly cabinet meetings can easily become debating societies with much heat and little light. But it would seem that a manager could with tact and discretion make such meetings mutually enlightening to all who attend. The manager system contemplates mutual understanding and discussion between the manager and his staff. That the system in itself is profitable is evidenced by the large number of commercial and industrial enterprises which use it. Individual conferences probably are more economical of time, but the directors and manager as a collegiate body should be able to work together more smoothly, and the time in the long run would be well spent.

SUMMARY AND CONCLUSION

The study of seven mayor-council cities leads to the conclusion that the mayor's department heads resemble the president's cabinet in most partic-

ulars, when they meet together for discussion. They occupy the same position—a body of subordinates chosen by an independent executive and responsible to him alone. But unlike members of the president's cabinet they are not subject to confirmation of the council in the strong-mayor cities studied. They act independently subject to the unifying direction of, and responsibility to, the executive. The mayor occasionally addresses the council in all of these cities, but he sits regularly in only the councils of Toledo and Indianapolis. This is the practice in the English plan, but of course the mayor is not a member of the council and has no vote. Regular cabinet meetings are held in three of the seven cities. In three of the other four they are impracticable because of the excessive number of departments and boards. The multiplicity of departments and board organizations seems to be the main reason for lack of cabinet meetings. Proper division of the administration along functional lines is one of the first prerequisites to a cabinet system. Few departments headed by single directors make possible cabinet meetings. A "presidential cabinet" is profitably used in the mayor-council cities where the functional organization makes it possible, i.e., Denver, Indianapolis, St. Louis, and Toledo.

The cabinet under the manager system resembles the president's less than it does under the mayor-council system, but even here the likeness is closer than to the British cabinet. The heads of departments are chosen by the manager and are responsible to him alone. However, the city manager is responsible to the council and his tenure of office depends on its approval. In this respect he is comparable to the British prime minister. Regular cabinet meetings are held in only half of the manager cities chosen. The

main difference between the president's cabinet and the manager's cabinet is that in the latter the executive is responsible to the legislature.

It seems unfortunate that there are no meetings of the department heads in two of the city-manager cities studied, for Cleveland, Dayton, and Grand Rapids report excellent results. There are many variations in municipal "cabinets," but their most essential

feature is their collegiate quality—bringing together the executive and department heads for mutual discussion and coöperation in the administration of the city. Where this system has been tried, it has generally been found successful. It tends to modify the "despotism" of the strong mayor and to give the city manager useful counsel and coöperation in his administration of civic affairs.

BUSINESS ADMINISTRATION: A WEAK SPOT IN OUR CITY SCHOOLS

BY HARRY P. SMITH¹

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Responsibility for city school administration is too often divided among coördinate heads, with the result that there is lack of correlation between the educational and the business phases of school operation.

THE weak spot in the business administration of city schools is the assumption that the educational administration and the business administration are two entirely separate and distinct functions, each to be performed by an executive responsible directly to the board. It is supposed, of course, that there will be coöperation between the educational executive and the business executive. Many times this assumption is well founded. Too frequently, however, there is a woeful lack of coöperation due to the many factors, human and otherwise, operating in such situations.

This division has developed naturally as a result of the evolution of our methods of school control.

¹ Professor Smith is the author of the book, *Business Administration of Public Schools*, reviewed in our January issue.

VARIOUS TYPES OF ORGANIZATION

A number of interesting types of organization have developed. The first and most common is, of course, the organization of the board itself into committees ranging in number according to a recent study of the United States bureau of education from 14 to 0. With the delegation of functions to executive officers the board has come to be recognized primarily as a legislative body. The committees, then, are hang-overs from the days when the board was an executive, as well as a legislative body.

The second type is the rather general one of a many-headed administrative organization. A common form consists of two coördinate heads, a superintendent of schools and a business executive, the latter variously known as business manager, business agent, and

secretary of the board—when the duties of the last-named official differ from those of a corporation secretary. Such an organization is authorized by the Pennsylvania school law with the following provision: "He (the secretary of the board of school directors) shall have general supervision of all the business affairs of the school district, subject to the instructions and directions of the board of school directors."¹ The cities of Philadelphia and Pittsburgh have had nationally known men acting as their board secretaries and business managers in recent years. Many other cities of the country have similar officers.

The business affairs may, however, be administered by more than one executive. In St. Joseph, Missouri, one finds a superintendent of schools in charge of instruction, a secretary and business agent in charge of finance, and a chief engineer in charge of operation and maintenance. St. Louis, Missouri, has a charter which provides for superintendent of instruction, a commissioner of supplies, a commissioner of school buildings, and secretary and treasurer, all of whom are legally co-ordinate.

The organization may be such that some of the coördinate executives may be designated as major—as the superintendent of schools, and the financial agent; while others may be minor—as the chief engineer, the building superintendent, and custodian of supplies. All of them are, however, subject directly to the board of education.

These organizations have their origin in the evolution of the board itself, and in the persistence of a committee type of set-up where the committees are administrative and have, therefore, some executive officer who is responsible to them.

¹ *Pennsylvania School Law and Appendix*, 1925, p. 23.

In contrast with these organizations we find the unit type in which the superintendent of schools is the chief administrative officer of the board with all others responsible to him and through him only to the board. Notable among these we find the cities of Minneapolis, Denver, and Des Moines in the middle west; Atlanta, Georgia, and Birmingham, Alabama, in the south; and Rochester, New York, and Providence, Rhode Island, in the east. In several of these cities there are assistant superintendents in charge of business affairs who are nationally known in this field.

Such a variety of types of organization for the same purpose challenges the thinking of people interested in things administrative. It would be only natural to question whether they would all be equally effective, granting that the human factors involved were ideal. If a unit type of organization functions satisfactorily, what is to be said of a many-headed type of organization? If, on the other hand, the latter type is ideal, why has not the former demonstrated its futility and been completely replaced?

THE BUSINESS ANALOGY

Some information may be had from business. There was a time when business enterprises organized as corporations were subject to committee control and had coördinate executives working under committees. But industry, organized for public service and profit, and subject to intense competition, has long since learned that in the keen competition of the present day it is necessary to have the most efficient type of organization. Business and industrial enterprises have almost, if not quite, universally adopted unified executive control with a board of directors operating as a policy-forming board, but securing the administration of those

policies through a single executive to whom all others are responsible. Witness the American Telephone and Telegraph Company, the Pennsylvania Railroad, the General Electric Company, and the Wanamaker Stores. It is inconceivable that the boards of directors of these great enterprises would permit themselves either as wholes or as committees to waste their time on administrative details which they could delegate to an executive. And yet boards of education in large cities with tens of thousands of children under their control and budgets running into the millions will not infrequently do just that thing.

From the standpoint of the organization of the board itself the answer is clear. The board should function without standing committees, and should limit its activities to the purely legislative, that is, to policy formation. Its function is then to get its policies carried out through executives carefully chosen rather than to attempt to do the work itself either as a whole or through committees. Should occasion arise, special committees may be appointed whose work will be limited to single tasks delegated to them by the board and will automatically be discharged when their reports are accepted. Such committees would be exemplified by an auditing committee which might differ in personnel at each meeting, or a committee appointed to canvass the field for a superintendent of schools.

It may be interposed that the members of a committee become expert through committee service. If they ever do, it is solely by the trial-and-error method. A large percentage of the errors such a committee makes in becoming expert would never be possible were its functions delegated to a properly trained and responsible executive. An assistant superintendent who

is an expert in school housing and fixed equipment knows more about that work than the most intelligent board committee with its non-paid and non-expert personnel usually learns in a decade. School administration with the ever increasing complexity of modern education is a job for an expert, and not for a lay member of a board of education.

If, however, such a local situation exists that committees are imperative, then let the number be reduced to a minimum and let those committees be strictly advisory, and in no sense administrative. It may be illuminating to point out in this connection that of several hundred cities reporting on their school board committees to the United States bureau of education in 1922, 28 per cent had no standing committees.¹

In this connection it is pertinent to note that American cities under the mayor-council or the commission form of government have suffered from a similar lack of centralized responsibility. Their executive officers have frequently been actuated by other motives than the furthering of the public welfare. But, beginning with Staunton, Virginia, in 1908, American municipalities have endeavored to correct these defects by adopting another type of government—the city manager plan—the avowed purpose of which is to center administrative responsibility in one chief executive officer.

It has been suggested above that it is the function of the board of education to formulate policies as a legislative body and then secure their execution through the proper administrative channels. Several types of organization are utilized to this end. First, the board operates through a single

¹ *Administration of Schools in the Smaller Cities*. Bulletin, 1922, No. 2, of the United States bureau of education, p. 26.

executive officer to whom all others are subordinate. This has been designated as the "unit" type. Second, the board may operate through two or more coördinate executive officers. This is known as the "multiple" type. The division is usually instruction and business. The business activities may be administered by a single major executive, coördinate with the superintendent, or by two, or even more, major business executives, coördinate with the superintendent of schools. Certain New Jersey cities, the city of Chicago, and others are instances in point. Or some of the executives may be less important and still coördinate. The commissioner of supplies in St. Louis is an illustration.

APPRAISAL OF DIFFERENT TYPES

The proponents of the various kinds of organization advance many arguments. Chief among the claims for the multiple type are decreased costs and more efficient business methods. The claim for unified organization is that since industry has found unified control more effective, and since municipalities are adopting a similar type in the city manager plan, school administration should also be unified.

In attempting an appraisal for the purpose of choosing between the two types of organization, several questions must be considered:

1. Are there marked differences between the two types in the business methods employed?
2. Are the functions performed by administrative officers fundamentally different in the two types?
3. Are the two types equally efficient from an educational point of view?
4. How do costs compare?
5. Are the administrative relationships satisfactory?

In an attempt to evaluate the business activities of the two types of cities the writer visited in person 25

large cities, 13 having the unit type and 12 the multiple type, investigating budgetary procedure, financial accounting and reporting, the purchase, storage and distribution of supplies and fuel, payroll accounting, and insuring of school property.

To secure an objective basis for evaluating the activities and the practices observed, criteria were established by asking groups of competent judges in the several fields to rate the activities and practices according to a set of uniform directions given them by the writer. The average of the ratings was then computed for each activity or practice. The scores thus obtained were used in evaluating the business activities of the two types of cities visited.

Little difference was found between the methods of transacting the business of the board in the two types. The cities having the multiple type had better accounting procedure, no doubt because of the fact that many school business executives are expert accountants. It was significant, however, that no better budgetary procedure or financial reporting was found in multiple-type cities than in unit-type cities. In fact, the latter excelled on the basis of the criteria used in both budget-making and financial reporting. Of the eight activities listed, the unit cities excelled in four and the multiple in three. There was no perceptible difference in the pay-roll procedure. It may seriously be questioned, then, whether there is any essential difference in methods of transacting the business of the school board, whatever the type.

The performance of executive functions in the two types was investigated by Dr. Amos L. Heer,¹ who selected 48

¹ Amos L. Heer, *The Present Status of Business Executives in the Public Schools of the U. S. in Cities of 25,000 and More Inhabitants*. Published by the author: Kent, Ohio, 1928.

functions performed by administrative officers in 75 cities, 49 unit and 26 multiple, as follows:

1. The number of times each function was performed.
2. The number of times each function was performed as a routine activity.
3. The number of times each function was performed only after approval of the board of education acting upon its own initiative or upon the recommendation of the business executive.
4. The number of times each function was performed only after the approval of the board of education acting upon the recommendation of the superintendent of schools.
5. The number of times each function was performed upon the direction of the superintendent of schools without the action of the board of education.

After an elaborate quantitative study, he concluded that but nine of the forty-eight functions were performed a sufficiently greater number of times by the business departments of the multiple organizations to make the difference significant. In the routine activities only five were found with significant differences. A comparison of the two types, based on functions performed only after action of the board acting upon its own initiative or upon the recommendation of the business department, revealed nine of the forty-eight with significant differences.

He concluded that the similarity of the two types was much greater than their difference. In fact he insists that there can be no pure type of multiple organization.

Dr. J. O. Marberry¹ attempted to evaluate the relative efficiency of the two types by comparing them on the basis of four educational factors, viz:

1. Teacher-pupil ratio in the elementary schools.
2. Teacher-pupil ratio in the secondary schools.

¹ James O. Marberry, *The Administration of Public Education in Centralized and Coördinated Schools*. (Unpublished doctor's dissertation in University of Wisconsin library, 1926.)

3. Ratio of secondary school teachers to total teachers in day schools.
4. Ratio of average daily attendance in secondary schools to total average daily attendance in day schools.

He found no significant difference among 206 cities, 140 of which had the unit organization and 66 had the multiple.

To make a comparison of relative costs the writer recently compiled the unit costs for current expense by functions for all school systems in cities above 30,000 which he could definitely identify as belonging to one type or the other. Seventy-six of these were multiple and 101 unit. The unit costs were based on average daily attendance.

COMPARISON ON COST BASIS

The following table shows the average unit costs for current expense, by functions for 1925, the data being secured from Bulletin, 1927, No. 32, of the United States bureau of education:

Functional Divisions	Unit Cost for Multiple Cities	Unit Cost for Unit Cities
General control.....	\$3.55	\$3.18
Auxiliary agencies...	2.86	3.12
Supervisors' and teachers' salaries..	70.54	68.57
Textbooks and supplies.....	3.85	3.64
Plant operation.....	10.45	10.28
Plant maintenance...	4.54	4.12
Fixed charges.....	1.89	1.76
Total current expense.....	97.43	94.69

In every functional division save one, the cost was greater in the multiple organizations and the total was also greater. It is possible, however, that these differences were not large enough to be significant. A careful study by the writer of a smaller group of cities using the cost data of 1922 revealed

only one significant difference—the greater cost of the business control of multiple organizations. These cost figures mean just one thing—that the burden of proof is clearly on those who advocate the multiple type of control.

We have found no significant differences in methods of doing business, in allocation of functions, in certain factors marking educational efficiency, and in current costs. There remains one other question of paramount importance—the relationship existing among administrative officers.

In unit systems the chief administrative officer is responsible for the proper functioning of all other employees of the board. If friction exists he is held responsible for its elimination. If inefficiency appears he receives the blame, and must eliminate it or be eliminated himself.

In multiple systems, on the other hand, the board in the very nature of the case must bear the responsibility. If friction arises, if inefficient work is done, the board itself has sole responsibility. It is pertinent, then, to inquire into the functioning of administrative officers in multiple organizations.

FUNCTIONING OF ADMINISTRATIVE OFFICERS

The executive officer in charge of the business affairs of a multiple type of organization may not be trained as an educator and therefore may lack an educational viewpoint. He may have instead a business, architectural, or even a political point of view. Since he is coördinate with the superintendent of schools, the work of both officials may be seriously hampered by opposite approaches. If an educational system is to perform its true function, it cannot be hampered by unfortunate relationships among its

executives. It was evident to the writer on visiting twelve large eastern cities with school systems of the multiple type that many school business executives were thoroughly conscious of the responsibility of their positions, particularly of the necessity of keeping the educational welfare of the children ever in mind. It was also evident that both business and educational executives in these cities were conscious of the fact that one officer might invade the field of the other, and that care should be exercised at all times lest there be an open "break." There was on the part of business executives a tendency to stress the fact that *their* policies were resulting in telling economies, that *their* school systems were costing less than others near by. Other statements indicated that other points of view sometimes prevailed which might, under certain conditions, operate to the detriment of the educational end of the organization.

The writer collected a large number of incidents bearing on administrative relationships. These were gathered through personal visits to a dozen large cities; in personal conference with former professional workers in those cities; from correspondence and confidential conferences with employees, present and past; in the conferences of members of the division of field studies of Teachers College, Columbia University; and from survey reports and minutes of board meetings.

A careful analysis of data secured from twenty-three cities with organizations of the multiple type indicated that, regardless of the personnel involved, an educational point of view is frequently lacking in the administration of school business affairs and administrative responsibility is definitely divided.

The lack of an educational point of

view in the business department often results in:

1. *The improper planning and equipment of school buildings with respect to the educational program.* This activity is delegated in a surprising number of cases to an independent executive officer. Numerous illustrations of the operation of this plan might be given, but one will suffice.

A former superintendent in City B reports that the business executive reduced by three classrooms the schedule of rooms furnished by the superintendent of city schools to make room for a light and power plant in an addition to the high school building. He did a similar thing in an intermediate school plant. The object was to enable the district to generate its own electricity, which the business executive claimed could be done for a lower figure than it could be purchased in the market.

In this same city the superintendent and architect recommended the "univent" system of ventilation. The business manager recommended and secured a plenum system on the ground that it alone would enable them to ozonize the air—a process which he maintained from his studies would be in operation within a few years.

2. *The hampering of adequate operation and maintenance of the school plant.* The operation and maintenance of school buildings—which duties, in systems of the multiple type, are usually in the hands of independent executive officers—are frequently performed less efficiently under this form than in organizations of the unit type. The methods of requisitioning repairs, the order in which these repairs are made, and their handling in the light of educational requirements and educational standards, may profoundly influence the physical and educational welfare of the children. Methods of securing needed repairs may be so cumbersome as to make it difficult to get action and render the results unsatisfactory from an educational point of view.

3. *The purchase of cheap or improper*

supplies, thereby handicapping educational activities. Not infrequently the business department of a multiple-type city school system has authority to appoint building custodians and engineers and to oversee their work. Such situations may lead to the improper appointment or assignment of operation employees. The lack of authority of principals over employees responsible to an independent business executive may lead to difficulties between the building principals and the custodians. In any event, it is not uncommon for other motives to operate than the furthering of the educational welfare of the children. The purchase of cheap or improper educational supplies is a characteristic and not infrequent result of the multiple type of organization. Where the business executive is actuated by motives of economy he may substitute for articles requisitioned by members of the instruction staff others less satisfactory in type. In one school system investigated by the writer, an official of this type had purchased school desks of an antiquated type to replace others which were even less antiquated than the new ones purchased. If he is actuated on the other hand by political motives, he will frequently purchase with a view to pleasing the vendor rather than the people using the supplies.

FAULTS OF DIVISION OF AUTHORITY

The division of administrative responsibility gives rise to:

1. *The improper assignment of functions among administrative officers.* The improper assignment of functions is perhaps an outstanding weakness of the multiple type of organization. There is a tendency to make the executives of the business department actually control the policies of the entire system.

The writer discovered the following situation in a city visited:

In City A the financial executive of the board of education was responsible for the preparation of the budget. This financial agent claimed that the executive in charge of buildings and grounds had no "business sense" and always overran his budget in the operation and maintenance of buildings. The executive in charge of instruction was equally emphatic that neither of the other executives had any "business sense" and both exceeded their budget. It was he alone who saved the day by providing for a surplus in the instruction budget which made up the deficits in the budget of the others. This provision was very clearly made by budgeting all instruction employees at the salaries to which they would be entitled the succeeding year. There was a 20 per cent turnover in the staff each year, making it possible to make replacements at lower salaries, thus creating a surplus which the other executives always used up.

Such a situation arose because no one individual was responsible for seeing that budget estimates were followed carefully. Had there been a person so delegated, such a state of affairs could not have long existed.

2. *The shifting of responsibility.* The multiple set-up fails to center responsibility definitely in some one executive, and results in the shifting of responsibility from one executive to another.

3. *The conduct of affairs on a purely personal plane.* One of the executives in a multiple-type school system may take such an attitude toward another coördinate with him that the conduct of affairs is largely determined by the personal relations existing between them.

In City A the superintendent of schools while making a supervisory visit to a school building noted a piece of playground apparatus in such condition that a child might have been seriously injured. He went immediately to a near-by mechanic and directed him to repair the equipment and submit his bill. The business executive in charge of purchasing became so incensed at this

action of the superintendent that the incident was carried not only to the city board of education but to the state department of education as well.

4. *Inadequate financial planning and reporting.* Inadequate financial planning and reporting may characterize the multiple-type organization. The budget, which should be built on a sound educational basis, is constructed by two individuals working independently or by an independent business executive. The two departments will sometimes be contenders for the funds available, with the board finally acting as arbiter in the dispute.

The Grand Rapids survey has the following recommendations to offer on this point:

The preparation of a school budget to be put before the board of education for approval should be the work of the two departments brought together under one reviewing agency able to judge relative values from an educational standpoint. It is felt that the present type of organization makes this impossible. . . .

The present school report of the board of education is a dual report. One is impressed with the fact that certain costs, computed in great detail, are reported each year by the business manager with no educational use being made of them. . . . The detailed computation of the costs of heating buildings has not been used definitely in the improvement of heating school buildings.

5. *The hampering of the execution of the educational policy of a school system.* Finally, the organizations characteristic of multiple-type systems may hamper the execution of the policies of the educational department or actually control them. This is possible because the business executive may be solely responsible for planning and equipping school buildings, keeping the financial records, purchasing supplies and equipment, and formulating the budget.

The Boston Finance Commission in its survey of the Boston school department describes the following condition:

The committee found that school policies which should be directed and governed by the superintendent were in many cases conducted on a personal basis between the superintendent and other administrative officers, and that the latter through their freedom from control by the superintendent could often hamper and dictate the educational policies of the superintendent. Indeed, this form of obstruction had been carried so far that when lately the business agent was requested by the superintendent of schools to furnish him with data relating to certain school activities the former declined to do so, and it was not until a month of the fiscal year had passed that the information was obtained.

The information which was sought here was pertinent to the formulating of the educational program by the superintendent of schools.

It appears that business practices

are essentially alike in both types of cities. No financial economies result from the multiple type of control. Functions are apparently performed in the same manner in both types and both types seem to be equally efficient in those educational aspects which can be readily measured.

If then the administrative and personal relationships among executives and multiple-type school systems are such as to hamper the realization of the chief objective of public education, then the multiple type of organization constitutes a weak point which should be eliminated. For it should be substituted a unified type of control in which the administrative relationships will be clearly defined.

THE NEW YORK TELEPHONE RATE DECISION¹

BY NATHANIEL GOLD

The College of the City of New York

New York state awoke late in January to the imminence of radical increases in telephone rates effective as of February 1. On January 31 the public service commission ordered a slight reduction in the charges announced by the company. The effect of these rates will be observed for a time, after which the struggle to fix final charges will be resumed.

The present situation follows ten years of litigation before commission, special master and court. The length to which the trial has dragged out and the extreme claims in valuation point to the necessity of improved methods of valuation. :: :: :: :: :: :: ::

ON November 7, 1929, the statutory court, consisting of three circuit judges, handed down its decision in the New York telephone case, modifying the findings of the special master, as re-

ported in March, 1929, but nevertheless declaring the existing rates confiscatory.

The final decree, dated December 20, 1929, enjoins the commission from enforcing the existing rates and empowers the company to increase its rates in accordance with the decision, "until the Public Service Commission in accordance with law fixes new rates . . ."

¹ The writer has given the gist of the 1926 decision by the New York public service commission, and the background of the litigation three years ago in the NATIONAL MUNICIPAL REVIEW, July, 1926.

THE CONFLICTING CLAIMS

The magnitude of the case can be indicated by the following: The first hearing before the master took place on October 14, 1924; the last hearing on September 10, 1928. There appeared about 625 witnesses; pages of testimony numbered close to 37,000; and over 3,000 exhibits were introduced. The property shows a book cost of over one-half billion dollars.

Manifestly, no detailed analysis of the case could be attempted here. The intention is rather to pick out the high spots, especially those which throw light on the existing method of utility rate regulation.

The various bases of cost and value claimed by the company, reported by the master, and adopted by the court were as follows:

one may argue as to the merit of reproduction cost estimates in general, in this particular case the book figures should be adopted. The cost shown by the books was about \$510,000,000. The balance in the depreciation reserve stood at about \$125,000,000. The value adopted should, therefore, not exceed \$385,000,000.

Using round figures, we have the following values in percentages of the claim advanced by the company:

	Millions of dollars	Per Cent
Claimed by the company..	728	100
Urged by the public	385	53
Reported by the master....	604	83
Adopted by the court.....	467	64

Even those who have become hardened to the conflicting claims in utility

NEW YORK STATE TOTAL AS OF JULY 1, 1926

	Company	Master	Court
Plant in service, new.....	\$619,761,445	\$599,778,500	\$558,964,167
Depreciation.....	54,479,886	53,647,819	124,647,819
Plant in service, depreciated.....	\$565,281,559	\$546,130,681	\$434,316,348
Construction work in progress.....	7,182,909	7,114,748	6,858,661
Working capital.....	18,717,256	15,964,000	15,964,000
Going value.....	48,463,000	35,000,000	10,000,000
Total.....	\$639,644,724	\$604,209,429	\$467,139,009
Fair value, not less than.....	\$727,729,004	\$604,209,429	\$467,139,009

In this long litigation, the public side was defended by the law department of the City of New York (which engaged most of the expert engineers, accountants and analysts), the public service commission, and the state attorney general. The defendants pointed to the fact that 90 per cent of the property had been built up since 1915, when prices began to rise appreciably; that the fixed capital had actually doubled in the four years 1922-1926; that, therefore, whatever

litigation, will, I believe, be surprised at the figures shown above. I shall, therefore, attempt to give an analysis of the chief disparities responsible for such results.

It will be observed from the last two lines of the detailed tabulation that, whereas the master and the court found fair values identical with the total of the details, the company demanded one that exceeded the total by over \$88,000,000. All three, the company, the master and the court, adopted

basically reproduction cost as a method. The company, however, claimed in addition \$18,000,000 for promoters' profits; \$44,000,000 for additional cost if the property were built by outsiders instead of by its own forces, as assumed in its estimates; and \$28,000,000, representing a 5 per cent increase due to a trend toward higher prices alleged to be manifest in 1926, the date of the valuation. These three items total \$90,000,000, and, with some adjustments, represent the valuation claimed in excess of reproduction cost as estimated by the company itself.

RULE OF LAW ADOPTED BY MASTER
AND COURT

The special master adopted the view advanced by the company, as to reproduction cost, in the following words:

The Courts seem to hold that the reproduction cost less depreciation theory is the proper one to follow in determining the value of plaintiff's property. (Citation of cases.)

I have, therefore, followed the reproduction cost less depreciation method in the foregoing findings (of value). (Report, p. 58.)

It is, therefore, necessary to explain the difference of over \$35,000,000 between the estimate of the company (\$639,644,724) and the figure reported by the master (\$604,209,429).

The largest single difference is in the item of going value, for which the master allowed \$13,463,000 less than claimed by the company.

Another item consisted of a 16 per cent deduction in the claimed amount for machine-switching central office equipment, amounting to \$11,030,674. He also reduced the item claimed as cost of financing from 5 per cent to 4 per cent, amounting to \$5,882,365, and the working capital he reduced by \$2,753,256. The remaining difference of less than \$2,500,000 is accounted for by a deduction in other claimed in-

tangibles of \$1,500,000, and, finally, a disallowance of over \$800,000 in the valuation of real estate totaling over \$100,000,000.

Thus, outside of a reduction in claimed intangibles, and a disallowance due to excess facilities, the only reduction in the estimates of the company made by the master was the comparatively insignificant sum of about \$800,000 in the value claimed for land and buildings. To all other items of fixed capital, including related overheads, he accorded full 100 per cent of the claims in reproduction estimates and in finding these amounts as value.

As to the rule of law adopted by the master, the court states:

Reproduction cost, less actual depreciation, is not the legal equivalent of fair value, as the master stated it to be, for it is, as a matter of law, but evidence of value (citation of cases). The depreciation deducted must be actual (citation of cases). Reproduction cost, less actual depreciation, is some evidence, the weight of which is to be determined with all the other evidence in the case, as tending to show both the value and the relative importance of all the evidence. . . . Defendants contend that book cost, less depreciation, should be the sole factor considered in the case at bar. This position assumes the other extreme and is inconsistent with the authoritative decisions. (Opinion, pp. 10-11.)

REPRODUCTION COST ACCORDED
FULL WEIGHT

Referring to the detailed tabulation, we see that for plant in service, new, the court deducted from the master's finding approximately \$41,000,000. In view of the court's statement just quoted, the reader might infer that this deduction was due to its taking a position between what it considered to be two extremes. Such an inference, however, is not borne out by further analysis.

For all fixed capital items, including related overheads, the court adopted

the estimates made by the company and reported by the master. Over \$26,000,000 of the deduction consisted of intangible items allowed by the master, but declared by the court to be "hypothetical reconstruction cost" and "costs of establishing the business" which have been disallowed by the Supreme Court of the United States. The items were: cost of financing, \$22,900,000; bankers checking engineers' costs, and interest on costs of preliminary organization, etc., \$3,200,000.

There remains, therefore, another deduction of almost \$15,000,000 that the court made from the master's value to be accounted for.

As has been indicated above, the company demanded an additional allowance of \$44,000,000 in the value of its plant above its own reproduction cost estimates, on the ground that the latter were made on the assumption that the property would be reproduced by its own, or its parent company's, skilled forces; but that it was entitled to have the value based upon what it would cost to reproduce by an outside corporation under "normal," and not extraordinarily favorable conditions.

This hypothetical additional "cost" the master disallowed, and the court upheld him as being in accord with legal requirement.

The master was, however, inconsistent in that he allowed the company to include in its reproduction cost an amount for the new panel-type automatic equipment that represented what it would cost an outsider, or non-experienced manufacturer, in addition to the actual charges made by its own sister company, the Western Electric, for such equipment. This item, referred to as the "Inexperience Factor," was, of course, similar in nature to the other item, and should have been equally disallowed.

It amounted to \$17,392,214, but as the master considered 16 per cent of this type equipment excessive, he included in his figures only 84 per cent of this sum, or \$14,600,000, which the court deducted from the master's figures.

Thus, we see that for the items of fixed capital, including related overheads, the court as well as the master accorded 100 per cent weight to the reproduction estimates submitted by the company, in spite of the court's declaration that the master erred in holding reproduction cost to be legally equivalent to value.

DEPRECIATION A MAJOR ISSUE

From the second line in the detailed tabulation, it will be seen that the greatest single factor contributing to the discrepancy between the values found by the master and the court, respectively, was the ruling touching depreciation. It results in a difference of \$71,000,000.

This amount represents the excess of the balance in the depreciation reserve over so-called observed depreciation testified to by witnesses for the company, and accepted as full depreciation by the master.² But here again I must warn the reader not to draw a conclusion apparent on the surface. The court devoted almost five pages of typewritten legal cap to depreciation, and the statements contained therein are so conflicting, and their application in the finding of value for the telephone property as of a later date is so inconsistent with the court's finding for 1926, that it is extremely difficult to state its real holding with respect to depreciation.

² The amount for depreciation reported by the master is *less* than admitted by the company, as shown in tabulation, merely because he reduced some items in their initial valuation, intangibles and excess equipment, as was explained above.

INCONSISTENT POSITION OF COMPANY

Briefly, the issues touching depreciation in this case were as follows:

The company charges over 5 per cent of the book costs of fixed capital annually for depreciation to operating expenses, crediting the same to a depreciation reserve. Inasmuch as the loss in capital upon retirement, charged against the reserve, has throughout amounted to less than the credits, the balance in the reserve has been growing, till it reached over \$125,000,000 on the date of valuation.

The company is not required to, nor does it in practice, segregate a fund and label it as the unexpended reserve. The proceeds are used in the business of the company—for the acquisition of fixed capital or other property, etc.

The object of the charges for depreciation against the various items of property is summarized by the company in these words:

The [depreciation] rates which plaintiff has built up in the exhibits above referred to in this point include nothing for fire, nothing for changes of fashion and next to nothing for storm. They are designed to cover only the actual physical deterioration from use and time and the withdrawal from service because of fairly, definitely determinable changes and advances in the telephone art [and] the life and salvage expectancies were determined as accurately as possible and plaintiff's proposed rates [of depreciation] fixed directly in accordance therewith. (Company's Brief to the Master, p. 282.)

The company thus not only justifies its current actual charges, but would, if allowed, charge larger amounts. In fact, its present annual charges have been continued despite the fact that the commission in its decision of May, 1926, provided for a composite rate of only $4\frac{1}{2}$ per cent.

However, when it came to determine the depreciation existing in the prop-

erty, the company declined to treat its accumulated reserve as a measure. The latter, it argued, was merely a bookkeeping entry. Its engineers, by examination, found existing depreciation amounted to only 43 per cent of the balance in the reserve.

That this examination was confined to existing physical wear and tear, was admitted by the company (Record, p. 19814). Inadequacy and obsolescence, which are considered when making annual charges, and which are the major causes of retirement by the plaintiff, were ignored in the determination of existing depreciation. The court took into consideration this inconsistent position of the company by stating:

But if the actual depreciation exists to the extent that the plaintiff has claimed in building up this reserve, it exists as much for valuation purposes as it did for the creation of the surplus. . . . If, as claimed by the plaintiff, sound honest business methods have been followed and the straight line method pursued by it was not excessive, the depreciation reserve, when added to the property now or at any time, would be no more than sufficient to keep the actual value of the property constant. . . . When it built up its reserve, it claimed the reserve as its actual depreciation. It cannot now take an inconsistent position about depreciation, without fully establishing it, and it has weakened its proof of present value accordingly. The plaintiff was right about depreciation when it created its reserve and it is wrong, in its position now, in its claim for a lesser sum as actual depreciation in this effort to establish fair value. (Opinion, pp. 29-30.)

This would seem to declare that a company cannot "hold with the hare and run with the hounds"; that if it has built up a reserve from annual charges to operating expenses, which charges it claims to be necessary to make good accruing depreciation, it cannot, at the same time, be heard to say that the reserves do not measure depreciation for valuation purposes.

FAILURE OF PROOF BY COMPANY

However, another portion of the court's opinion, immediately preceding the statement quoted above, states:

Either the property has in fact depreciated to the extent of the depreciation reserve which has been created, or it has not. If it has not, the plaintiff has been allowed to take money from its rate payers under the claim of depreciation which was not there, either seen or unseen, and which it will never have to admit. In that case, the excess reserve has been acquired lawfully and is the property of the plaintiff (pp. 28-29).

And at another point:

The record satisfactorily shows that there is more reason to believe that the actual existing depreciation in the plaintiff's property is reflected by the amount of its reserve for depreciation than that it is shown by the estimate of experts who stated observed depreciation, which sum only was deducted by the master. For these reasons, the plaintiff has failed in the burden, resting upon it, to prove that the reserve depreciation was greater than the actual depreciation, both seen and unseen, as measured by the depreciation reserve (p. 29).

These passages seem to indicate that the court deducted the entire reserve in this case, not because to do otherwise would be inconsistent with allowing charges in operating expenses for depreciation based upon rates that resulted in the accumulation of the reserve, but merely because the company failed to take into consideration all factors of depreciation. It failed in its proof; therefore, the reserve had to be taken as the measure.

BASIS OF COURT'S RULING UNCERTAIN

That the latter quotations may reflect the opinion of the court is indicated by what it did when finding a value as of July 1, 1928. The company had not proved value as of that date in the record. It merely increased the 1926 valuation by the net book

additions and working capital (i.e., additional cash and materials and supplies) and increased its depreciation to a point where it would form the same ratio of the gross figure, as the claimed depreciation in 1926 formed of the initial valuation of that date. This additional depreciation amounted to less than \$8,000,000, while the depreciation reserve balance grew in the two years by \$30,000,000.

The court adopted for 1928 a valuation based upon its finding for 1926, plus the additions claimed by the company. True, there was a technical objection by the company to the court's consideration of the increase in reserve, on the ground that the figure was not part of the record. But the additional amount deducted for depreciation by the company for the later date was merely derived from a calculation on the 1926 basis, which basis had been rejected by the court. Also the company admitted its reserves were greater in 1928, and the exact amount could be demanded by the court as of any date.

The least the court could have done, under its decision for 1926, was to make a calculation similar to that of the company, and increase the depreciation deduction, so that it would form the same percentage of fixed capital in 1928 as it did, on the court's basis, in 1926. This would not have increased it by the amount of the increase in the reserve balance, namely, \$30,000,000; but instead of only increasing it by less than \$8,000,000, the depreciation deduction would have risen by over \$19,000,000.

THE RULING AS TO GOING VALUE

Finally we come to the last important deduction by the court from the master's valuation, and that is the reduction in the item for going value from \$35,000,000 to \$10,000,000.

It may interest the readers to know

that the company introduced 44 witnesses, and the testimony covered about 2,700 pages, to prove this item. This entire mass is rejected by the court, and, instead, the amount allowed by the commission in its 1926 decision is taken as the value. The method used by the company to show its going value, and the objections thereto, are stated by the court as follows:

Plaintiff's claim, which the master considered, that nineteen million dollars was required to train its force of employees to their present efficiency, had previously been treated as a cost of operation. That treatment was proper. It proved five and one-half million for developing records, files, etc., and four million for record of subscribers and directories. These expenses were charged up to operating costs. They may not be charged both as expense of operation and as an acquisition of capital. Nine and a half million dollars was considered as the hypothetical cost of advertising and canvassing to get subscribers. This was a cost for creating good will and a regulated utility cannot estimate good will into its rate base. . . . The allowance made by the commission for going concern value was soundly based and therefore we modify the amount allowed by the master to ten million dollars. (Opinion, pp. 23-24.)

The reasoning of the court will be regarded as sound by accountants and impartial students of utility regulation. But those acquainted with the history of this case will find humor in the last sentence of the passage quoted. The fact is that the \$10,000,000 was anything but "soundly based." Both the majority and minority opinions of the commission in 1926 declared that the past history of the company does not warrant the inclusion of any separate item for going value. Thus, the majority states:

Although the testimony in this proceeding does not establish Going Value from the financial history of the company, in view of the decision of the statutory court, we make an allowance of

\$10,000,000 for Going Value. . . . (Supplemental Bill of Complaint, Ex. G, p. 49.)

And the minority declares:

. . . it is not easy to avoid the suspicion that any additional allowances for going value in this investigation approach near to the sanctioning of the inclusion of "good will" as predicated upon earning capacity. (*Ibid.*, Ex. H, p. 52.)

The commission allowed this amount merely because it felt itself constrained by the very same statutory court (whose personnel had nevertheless changed) that appointed the master, to allow a separate amount. The company had again another opportunity to prove going value, but the only evidence it presented consisted of items that cannot, according to the court, be legally admitted. In other words, this court agrees with the commission that no proof was submitted as to the existence of going value. Nevertheless, the court now incorporates the \$10,000,000 thrown into the valuation by the commission in 1926 solely because of its deference to the court.

COURT'S RULING AS TO RATE OF RETURN

The master agreed with the company that 8 per cent may be considered a fair rate of return upon the value adopted. The defendants introduced evidence to show that in the very years of this litigation the average cost of its capital raised was about 6½ per cent, although there is already included therein a goodly portion of common stock sold to the parent company, A. T. & T., upon which 8 per cent is paid, when the stock of the latter company sells at a much lower yield. If the rate base is to exceed investment cost, the defendants contended, a rate of 6 per cent thereon is more than ample to attract new capital.

The court found that on the basis of value it adopted, the existing rates yield less than 6 per cent, and hence

they are confiscatory. It also ruled that "a 7 per cent return will amply assure capital and reward investors" and "that a greater rate of return allowed would be unjustified." (Opinion, p. 37.)

REASONABLE RETURN ON FAIR VALUE

Using round figures, the net result in charges to subscribers, on the basis of the various claims and the allowances by the master and the court, respectively, would be as follows:

These new rates effected increases of from over 26 per cent for some subscribers down to insignificant increases for others. For the majority they would increase the telephone bill by about 13 per cent.

The company specifically refused to file formally the new schedules with the commission, claiming power to institute them by decree of the federal court. This action still further intensified public protest.

At a hearing before the commission

	Fair value (Millions of dol- lars)	Reasonable return		Percentage addition to operating expenses ¹
		Rate	Millions of dol- lars	
Claimed by the company.....	728	8%	58	45%
Urged by the public.....	385	6%	23	18%
Reported by the master.....	604	8%	48	38%
Adopted by the court.....	467	7%	33	26%

¹ The operating expenses in 1926 amounted to approximately \$128,000,000.

Thus, we see the full significance of this case. If the claims of the company were allowed, the charges to subscribers would be \$58,000,000, or 45 per cent, above actual operating expenses as a return for the property used in the service. On the basis claimed by the public representatives, only \$23,000,000, or 18 per cent, would be added to operating expenses; etc.

EVENTS FOLLOWING THE DECISION

Although the final decree was filed by the court December 27, 1929, the company took no action till January 21, 1930, when it announced new rate schedules for the various localities in the state, to take effect February 1, 1930.

The changes in rates and, in some cases, service, were so marked that a wave of protest arose spontaneously from practically every community.

in Albany, the company produced data to show the basis of the computations as to valuation and expected returns under the new rates in 1930. Both were disputed by the commission and by the municipalities represented.

After a long wrangle in a four-day session, the commission announced, just a few hours prior to the time when they were to take effect, rates that would bring additional revenues of only \$11,000,000 a year, instead of the \$14,000,000 asked for by the company.

These rates are only temporary, however. Hearings before the commission are being continued, and permanent rates are to be put into effect May 1—if the company does not again appeal to the court. It looks very much as if the New York Telephone case is far from being settled in spite of almost a decade of continuous litigation.

QUESTIONS FOR SOLUTION

A few questions seem pertinent in the light of developments in this case:

1. What can be said of the legal principles underlying our system of rate regulation, when such differences are possible in their application?
2. Can the present methods continue, or should they continue, when they result in such protracted litigation?
3. What are the effects upon investors in utility securities pending the determination of these widely diversified claims, if they can be said ever to be determined?
4. What is the effect of a long conflict upon public relations between the utility and the community it serves?
5. What can be done, and by whom, to improve regulatory practice?

RECENT BOOKS REVIEWED

MIND YOUR OWN BUSINESS: THE CASE FOR MUNICIPAL HOUSEKEEPING. By R. B. Suthers. London: The Fabian Society, 1929. 125 pp.

This is a deftly done piece of propaganda for municipal ownership in British cities. George Bernard Shaw is prouder of his "Common Sense of Municipal Trading," also a Fabian booklet, than he is of "Saint Joan," yet he is magnanimous enough to say that Mr. Suthers' book is the other book worth reading on the subject. Gladstone's alleged genius for making figures interesting has been captured in it, for only on reflection does one recognize the immense amount of statistics woven into its twenty-seven chapters.

It is addressed primarily to the non-voting British citizen and after recounting the reasons for, and the present tremendous field of "municipal trading," it ends with a plea to "vote Labor" so that the principle may be safeguarded and spread further. A fuller treatment of British municipal ownership would show that city councils overwhelmingly non-Labor have been responsible for policies in this field which some Americans regard as the reddest Socialism. Mr. Neville Chamberlain, a pillar of the Conservatives, is quoted as endorsing the installation of municipal banks, and shown as giving energetic aid in founding the one that Birmingham now has.

The book has two high spots. The first is the discussion of what attitude to take toward the balance sheets of municipal undertakings; such are damned by opponents if they show losses, because the taxpayer makes up the difference. They are likewise damned if they show profits, because the inference is that the buyers of the services have been exploited. The other high spot is the carefully written chapter discussing the clashes which have occurred frequently in the last few years in the north of England between the coöperative stores and Labor city councillors—usually the Labor voters are also coöperators.

Those who realize that the city manager plan removes a great obstacle to the adoption of municipal ownership—the intrusion of politics into administration—may get many suggestions from this Fabian tract as to what conservative

American businessmen may soon be asking city managers to include in the scope of their administrations.

WALTER J. MILLARD.



THE AMERICAN COMMUNITY IN ACTION. By Jesse F. Steiner. New York: Henry Holt & Co., 1928. 392 pp.

SMALL TOWNS. By Walter Burr. New York: Macmillan, 1929. 264 pp.

The life and politics of the American small town have been largely neglected while attention has been showered upon our large cities or upon functional aspects of our civilization. Dr. Steiner has brought together twenty case studies of typical towns, worked out in the first instance by his students at Tulane University and carefully revised and pointed by himself. Apart from the fact that all but five of the communities treated are in the South, this volume gives an exceedingly comprehensive and vivid picture of the problems confronting the American town generally. Each town is singled out to illustrate some problem of general interest. Fairmont, for example, represents the boom town and its deflation; Jefferson, a state university town, the economic conflict of town and gown with its social and political repercussions. The note of conflicts runs also through Ferrum, the mill town, and Big Lick, the lumber town. The rôle of social agencies—the churches, the Grange, the Ku Klux Klan, business leadership, and historic tradition—is stressed in many of the cases. Politics, unfortunately, receives but a few casual mentions. A particularly interesting picture of the rôle of family traditions is given in Wagram, an old Scotch-Irish community in North Carolina. The usefulness of this interesting volume is further enhanced by an excellent series of questions and bibliographical suggestions appended to it. This is in many ways a pioneering effort in the application of the case method to the community, and Dr. Steiner has achieved unusual success.

Professor Burr, on the other hand, approaches the town functionally. He seems never to be quite clear whether he is discussing the town and its culture or the whole agricultural problem besides. The author, we learn from the jacket,

"is a frequent speaker at small-town chambers of commerce and other business men's organizations, and knows his subject." This may account also for his fondness for platitudes, his irrepressible optimism and his sturdy devotion to "service." His acquaintance is somewhat limited to Kansas. One might wish that he had not scattered his observations and researches about Kansas through a welter of secondary material, little of which is new. Next to Steiner's case book, Paul Douglas' *The Little Town* gives the best picture of those important and singularly American units which are neither rural nor urban, though partaking of the nature of each.

JOSEPH MCGOLDRICK.

Columbia University.



MANUAL OF ACCOUNTING, REPORTING, AND BUSINESS PROCEDURE FOR THE TERRITORIAL GOVERNMENT OF HAWAII. By Henry P. Seidemann. Baltimore: Johns Hopkins Press, 1928. Pp. xxviii, 570.

This book presents a detailed description of the budget and accounting system which Mr. Seidemann installed in the territorial government of Hawaii. In 1923 the territorial legislature created a commission on public accountancy to supervise the installation of such a system. The Institute for Government Research was requested to undertake the task and Mr. Seidemann went as its representative to Hawaii in July, 1924, where he became the technical director of the work under the commission. He remained there for a period of over two years, during which time he devised and installed a budget and accounting system in the territorial government and also in the local governments, notably in the city and county of Honolulu.

Mr. Seidemann's volume is essentially a working manual for the territorial government. It sets forth step by step the budgetary and accounting procedure with illustrations and descriptions of the various forms and statements used. The author has devoted a few pages in the early part of the book to a discussion of what he calls the "principles of accounting procedure." These "principles," however, are mainly an argument for accounting on the accrual basis, which is the type of system installed in Hawaii. The manual, as such, opens with a discussion of the budgetary procedure and forms. This is followed by an analysis of what the author deems to be the essential accounting statements and

reports. The system of fund and proprietary accounts installed in the territorial auditor's office is then described. Following this, there is a description of the departmental accounting, tax office procedure, expenditure documents, and revenue and receipt documents. The volume closes with an outline of the auditing procedure.

It is quite likely that those who read this volume will not agree with some of the essentials, much less all of the details, of the system which Mr. Seidemann outlines. There will be diversity of opinion, no doubt, on the kind of balance sheet which the author sets up. Some will prefer to present the key statement of the budget in the form of an operating statement rather than a balance sheet. Others will see no need for a set of accounts kept in each of the major departments of the government which more or less duplicates that kept in the central accounting office. Nevertheless, the fact remains that Mr. Seidemann has carried through with apparent success a large and difficult task of accounting installation. No detail seems to have escaped him, so meticulous has been his method.

A. E. BUCK.



THE BUREAU OF THE CENSUS. By W. Stull Holt. Washington, D. C.: The Brookings Institution, 1929. 224 pp.

Here is a most timely little book. With the census of 1930 only a few weeks away, some of us, at least, are moved to a greater interest in the organization and activities of that branch of our governmental machinery which undertakes to count noses in these United States. The immensity of this task is, of course, vaguely apparent to most of us; but a glance through the pages of this book will bring home in an emphatic way the truly herculean nature of the job that the bureau of the census undertakes once every ten years.

This book is Service Monograph No. 53. In arrangement it follows the companion volumes of that series. A little more than half the space is taken to tell the history of the bureau; the remainder is devoted to its activities and organization. Those not very familiar with the many functions of the bureau will find the chapter on activities particularly illuminating. The decennial census and its various ramifications are well known, as are some of the other special activities, such as statistics of

cities, the quinquennial census of agriculture, business and commodity statistics, and the biennial census of manufactures. Here, however, is a complete list of all the bureau's activities, and a description of how they are handled.

WELLES A. GRAY.



PLANS FOR THE NORTHERN AND SOUTHERN RIVER FRONT, ST. LOUIS, MISSOURI. City Plan Commission, 1929.

St. Louis has long stood in the forefront of cities active in city planning. Recent reports by its official city plan commission, with Harland Bartholomew as engineer, have presented carefully worked-out plans for vital physical improvements bold in character. Following a great scheme for developing the central portion of its river front (see *NATIONAL MUNICIPAL REVIEW*, February, 1929, p. 120), the commission has studied the northern and southern portions of the Mississippi River bank and now presents plans for permanent solutions to the hitherto unsightly, inefficient conditions obtaining over large portions of the frontage.

Of six miles on the south, now chiefly in private ownership, two and one-half miles are to be reclaimed by a drive connecting the end of the famous Kingshighway Parkway at the present small Bellerive Park with the extensive Marine Hospital grounds. This drive, built up at times as an elevated road along the side of the bluff, below the level of the fine estates but well above the bottom lands, will command extensive views of the river and the country beyond. At one point a yacht harbor is planned, in order to encourage this form of recreation.

More novel and ambitious are the plans for seven miles of the northern river front. Without mentioning the problem of state boundaries, the proposal is made to shift the course of the mighty Mississippi by cutting off a great bow and digging a straight new channel through large islands now below the level of frequent floods. Recognizing that there is already plenty of industrial land available in the vicinity and that such an extensive additional area, about 3,150 acres, would if opened to industry seriously dislocate present values and trends of growth, the commission proposes an aviation field one mile square in the center of this new land, to be surrounded on three sides by recreation areas covering twice that area of land and including nearly as much more water surface as yacht

basin and lagoons, thus avoiding the expense of filling much of the discontinued channel. The total cost is estimated at $22\frac{1}{2}$ million dollars, to be spread over twenty years of construction. Besides the airport and its large automobile parking spaces, an eighteen-hole golf course, equestrian field, athletic center, extensive gardens, forest grove, and three bathing beaches may be provided. Navigation will be benefited and adjacent land values over a large area enhanced.

ARTHUR C. COMEY.



UNIFORM CRIME REPORTING. A Complete Manual for Police. By the Committee on Uniform Crime Records of the International Association of Chiefs of Police. Published by the Committee, 261 Broadway, New York City, 1929. 464 pp.

Nearly every one knows that we have no crime statistics in the United States. We know a little bit about people who get sent to penal institutions—and here and there a community looks at its grist of court cases or makes a criminal survey of a restricted area. But substantial information about the volume of crime (penal statistics are not statistics of crime), geographical distribution of crime, whether crime increases or decreases, whether particular offenses increase or decrease, success of police in going after crime—these and many other questions about crime are unanswered by available information. There are quite obvious reasons for this. Police departments, by and large, have not developed any interest in crime figures; few chiefs, probably, regard such figures as important. Records kept by two departments would not be uniform, and therefore no comparison could be made of the results. Add to this the fact that the statutory definitions of crimes differ considerably in the various states, and you have a situation that throws the whole task of crime reporting into chaos and confusion—and it has seemed likely that order would never emerge from this chaos.

When the International Association of Chiefs of Police designated a Committee on Uniform Crime Records, in 1927, therefore, people having knowledge of this situation saw a prospect of improvement. If the *police* became interested in good crime reporting, something might be done. The Committee now publishes its proposals and the results of its labors; these amount

to a practicable plan for obtaining uniform crime reporting over the whole of the United States. Two approaches were possible. One was to secure the adoption of uniform crime laws, giving the nation a single body of definitions and nomenclature. This seemed to the Committee chimerical. The other was to analyze all these diverse codes and systems to the end that, by exclusion and inclusion, existing differences might be eliminated or minimized, paving the way for the collection of uniform statistics.

That is what the Committee has done, and it was a large task. Under the direction of Bruce Smith, the penal codes of all states have been analyzed and schedules drawn up which, when placed in the hands of officers in all the states, will permit the return of information which can then be collated with information from other states and worked into uniform crime statistics for the whole country.

The schedules call for information about "offenses known to the police," and if the police of the country will use this manual and the blanks carefully worked out by the Committee, we shall discover some day that we know something about the distribution, incidence, and other aspects of crime.

All returns, according to the Committee's plan, will go to the bureau of investigation of the Department of Justice in Washington, which will collect and compile the returns. That supplies the needed central authority. It would be quite impossible here to describe details of the mechanism, but these seem to be adaptable to the conditions and limitations of police authorities. Not only is continental United States covered, but outlying territories and possessions; and special devices have been worked out for urban and rural regions. Too much praise cannot be given the Committee for its laborious and exacting work. Coming from policemen themselves, the plan should appeal to other policemen—and while its success can be determined only by application, the way has now been supplied for getting uniform and comprehensive crime statistics. To persuade thousands of police departments, sheriffs and federal officers to use the plan is now the next step—and the Committee realizes that that is no small job.

WINTHROP D. LANE.

Croton-on-Hudson, New York.

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ARKANSAS BUSINESS LAWS AND TAXATION.

A Report by the Special Honorary Commis-

sion appointed by Governor John E. Marmineau. George Vaughan, Chairman. Little Rock, Arkansas, 1929. 267 pp.

The State of Arkansas has the lowest per capita taxes of any state in the United States. This significant fact suggests that any comprehensive study of the state's taxation system should give special attention to a careful analysis of expenditures and probable future needs of the state. While the report presents an unusual diversity of contents, it omits practically altogether such an analysis. The essential features of the report are the description of the Arkansas revenue system, a summary of economic and business conditions in Arkansas, an interesting graphic presentation of state and local taxes, an outline of defects in the present laws and their administration, and finally a proposed plan for a readjustment in taxation presented by the chairman together with a series of recommendations endorsed by the commission.

The flaws in the revenue system which the commission finds most glaring are a dismal failure to reach a vast body of taxable property; the indifferent practice of assessing officers under the township board régime, resulting in the widest disparity in the several districts in the assessment of property identical in character and worth; an almost total inability to secure any contributions from intangible property; and the inflexibility of a system which shuts its eyes to profits in groping after physical property alone. Classes of property which have been escaping the dragnet of the law are mineral properties, pipe lines, automobiles, oil in storage, private car lines, and intangibles.

The commission recommended that no excise or income tax law be passed. Three of the seven members, however, registered their dissent to this recommendation. The commission was unanimous in recommending the abolition of the township assessment system and the establishment of county equalization boards appointed by the state tax commission or the governor. There were two dissents on the recommendations that all previous tax laws be repealed, and that new revenue, if necessary, be sought from a system of state privilege taxes such as those of Virginia and North Carolina. The commission disapproved, although one member dissented, the lifting of any part of the county road tax and substituting therefor revenue to be derived from an increase in the motor fuel tax.

Part IV of the report consists of a study of the business and corporation laws of Arkansas by J. S. Waterman, dean of the law school of the University of Arkansas. Part V is the presidential address of the chairman on "What Price Government," delivered before the annual conference of the National Tax Association at Philadelphia in 1926. Part VI is adapted from a paper on an integrated system of state and local taxation, delivered by the chairman in 1921 before the Southwestern Political and Social Science Association. This is an outline of the model plan of the National Tax Association.

This report contains a mine of information on the tax situation in the state of Arkansas. The reviewer believes that the value of the report might have been enhanced by more intensive field studies along the lines of the North Carolina report, although such investigations undoubtedly require elaborate staff agencies. The chairman of the commission is to be complimented for the interesting presentation of the material and for the inclusion of modern and progressive ideas on tax reform, even though these ideas were not always endorsed by the majority members of the commission.

MARTIN L. FAUST.

TAXATION AND INDEBTEDNESS OF LOCAL GOVERNMENTS IN PENNSYLVANIA. By Leonard P. Fox, Ph.D. Pennsylvania State Chamber of Commerce: Harrisburg, Pennsylvania, 1929. 22 pp.

This pamphlet issued by the Research and Information Bureau of the Pennsylvania State Chamber of Commerce represents a praiseworthy effort to stimulate the study of local taxation and government costs by local business organizations and associations throughout the state. In addition to directing attention to the need for such study, the pamphlet makes suggestions on the matter of technique. There are 5,514 separate taxing districts in the state, which means that in every community there are at least three and sometimes four separate local taxing authorities. The pamphlet shows the trend in local tax levies since 1912 and the distribution of these levies among the different local government units. There is also a brief analysis of the local debt burden. With regard to suggestions for the study of local finance, the author emphasizes the essential points to be covered by a debt survey, the budget for capital expenditures, the county unit plan of assessment, sound assessment standards, and the costly fee system of tax collection. MARTIN L. FAUST.

REPORTS AND PAMPHLETS RECEIVED

EDITED BY WELLES A. GRAY

Assistant Director, Municipal Administration Service

Report of the Kansas Tax Code Commission.—By the Commission. Topeka, December 1, 1929. 176 pp. Here is a report on the revision and codification of the tax laws of Kansas. Such phases of taxation as income and inheritance taxes, gross production taxes, sales taxes, the taxation of banks, insurance companies, corporations and motor vehicles, and the taxation of intangibles are fully discussed, generally and as to their local application.



Collection and Enforcement of Taxes on Personal Property in New Jersey.—By Thomas B. Usher. Trenton: Usher Publishing Company, 108-114 North Broad Street, 1929. 7 pp. The author was at one time secretary of the New Jersey State Board of Taxation. In this leaflet the essential provisions of the state laws on this subject are summarized.



The Budget of the Board of Education, 1930.—By the Rochester, N. Y., Board of Education, 1929. 16 pp. This pamphlet shows in detail the expenditures for the past five years, together with the estimated expenditures for 1930. Planned for popular consumption, this is no dry document, but an interesting and well-put-together picture of the expenditures for education in a moderately large city.



Recreation Areas in Real Estate Subdivisions.—By the Playground and Recreation Association of America. New York, 1930. 14 pp. The main feature of this study is a chart, eight pages in length, which gives in detail, by city and state, real estate subdivisions in which recreation areas have been set aside. Data as to size, taxes, maintenance, etc., are included.



Personnel and Salaries of Police Departments in Wisconsin Cities, 1929.—Compiled by Celia Harriman, Municipal Information Bureau, University of Wisconsin. Madison, November, 1929. 16 pp. (Mimeographed.) This pam-

phlet gives the complete personnel and salary schedule for the police departments in 117 of the 143 cities in Wisconsin.



Report of the Interim Committee on Forestry and Public Lands to the Wisconsin Legislature of 1929.—Madison, 1929. 46 pp. A detailed study of the forest situation in Wisconsin, the history and operation of forestry legislation in that state, and recommendations for improvement, which include the encouragement of private forestry, and the further development of public forestry.



Report on the Los Angeles Mountain Park Company's Application.—By Carol Aronovici. Los Angeles: Thorwald Siegfried, 130 South Broadway, 1929. 30 pp. This is a report of an investigation, made by Dr. Aronovici, regarding an application for a permit to locate a quarry and rock crusher in a residential zone. The operation of the California zoning law and its flexible clause are discussed, together with the general effect of industrial incursions into the residential zones of Los Angeles.



Annual Report, Board of County Road Commissioners, Wayne County, Michigan.—Detroit, 1929. 214 pp. This copious report covers a great variety of road construction projects planned, undertaken, or carried on in Wayne County (Detroit) in 1929.



Planning Whys and Otherwise.—Bulletin of the Pennsylvania Association of Planning Commissioners, Harrisburg, Pa. State Department of Internal Affairs, Bureau of Municipal Affairs. July, 1929. 67 pp. This is a collection of excerpts from papers at the annual conference of the Association. It includes reports on planning progress in various Pennsylvania cities and addresses on different aspects of city planning in Pennsylvania.

JUDICIAL DECISIONS

EDITED BY C. W. TOOKE

Professor of Law, New York University

Officers—Removal—Effect of Sentence on Conviction for Crime.—This question of the power of a city to remove appointive officers guilty of misconduct in office is usually held to be a common law incident of the corporation, but the question of the power to remove officers elected by the people is usually held to be dependent upon an express grant of statutory authority. The offenses for which an officer may be removed include acts that have no direct relation to the discharge of his duties but are of so infamous a nature as to render him unfit to execute the duties of the office. The weight of authority in this country supports the view that such infamous acts may include those committed prior to his term of office. A review of the cases on these points may be found in *Richards v. Clarksburg*, 30 W. Va. 491, and *Allen, Att'y Gen. v. Tufts*, 239 Mass. 458.

In *Commonwealth v. Davis* (not yet reported), decided by the Supreme Court of Pennsylvania January 13, 1930, the mayor of the city of Johnston was indicted, tried and convicted of misbehavior in office and a part of the sentence of court was that "he shall be and hereby is removed from office." The constitution of the state of Pennsylvania provides that "all officers shall hold their offices on the condition that they behave themselves well while in office and shall be removed on conviction of misbehavior in office or of any infamous crime." Upon the question whether the sentence of the court effected the removal, or whether, as claimed by the defendant, the removal could not be made effective except by following a method prescribed by statute, the court holds that the constitutional method is exclusive and self-executing. The penalty of removal was necessarily the result of the conviction for "misbehavior in office" and hence was properly included in the sentence of the court.

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Zoning—Restrictions May Not Be Based upon Race Distinctions.—An ingenuous argument in support of the validity of a zoning ordi-

nance which would operate to create "white" and "colored" residential districts was recently presented before the United States Circuit Court of Appeals in Virginia (4th Circuit) in the case of *City of Richmond v. Deans* (not yet reported), decided January 14, 1930. It was contended that, since the statutes prohibiting miscegenation have been upheld as a valid exercise of the power of the state and not violative of any constitutional provision, a residential restriction based upon a similar classification should be upheld upon the same grounds.

This argument was an attempt to avoid the effect of the decisions of the United States Supreme Court (*Buchanan v. Warley*, 245 U. S. 60; *Harmon v. Tyler*, 273 U. S. 668 reversing *Tyler v. Harmon*, 158 La. 439) and of the Supreme Court of Virginia (*Irvine v. City of Clifton Forge*, 124 Va. 781, 97 S. E. 310) to the effect that discriminations based solely on color are in violation of the Fourteenth Amendment.

The court held that the mere fact that the zoning ordinance in question bases its interdiction on the legal prohibition of intermarriage and not specifically on race or color is not controlling, as the legal effect of the ordinance itself is based on a discrimination as to race and color and the question here presented, on final analysis, is identical in principle with that raised and adversely passed upon by the court in the cases above cited.

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Initiative and Referendum—Administrative Boards—Finality of Decisions.—In *State ex rel. Loomis v. City of Lincoln*, decided February 4, 1930, by the Supreme Court of Nebraska, the court holds that when an official body, to which the determination of any question is committed by statute, makes its formal decision, such finding has the force of a judgment of a court of limited jurisdiction and is to be considered final. The decision in this case was made by the city council in discharging the duty imposed upon it to determine the regularity of an ordinance enacted by initiative and referendum. The

difficulties surrounding all methods of direct legislation by the people are so great that no plan can be practicable unless the courts relax many of the old rules of strict construction of the exercise of municipal powers in order to carry out the primary intent of the legislature that such a method of ordinance-making shall be workable. Every legitimate presumption of the regularity of such a proceeding should be indulged in by the courts, especially where the state constitution authorizes or directs such methods of local legislation. The decision in the instant case, therefore, is to be supported upon the ground that it tends to make practicable the initiative and referendum provisions prescribed by statute.

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Municipal Functions—Manufacture and Sale of Ice as a Public Utility.—In *Bourland Ice Co. v. Franklin Utilities Co.*, decided December 23, 1929, the Supreme Court of Arkansas holds that a statute regulating the sale, delivery and distribution of ice and vesting the supervision of ice companies in the railroad commission, with power to consolidate such facilities in its discretion, violates the provisions of the state constitution prohibiting the granting of monopolies and exclusive privileges to any person or group of persons. The court reached this conclusion on the theory that such a business not being affected with a public interest "not inherently dangerous to the public welfare or morals," any person may engage in it as of common right.

Where the question has arisen it has been held that an ice plant is a proper subject of regulation under the police power, its operation being necessary to the comfort, health, and convenience of the public. (*Saunders v. Arlington*, 147 Ga. 581, 586.) In *State ex rel. Hayes v. City of New Orleans*, 154 La. 290 (1923), it was held that a municipal ordinance which prohibited the establishment and operation of an ice plant in a particular locality of the city was a legitimate exercise of the police power. The holding in the instant case, however, is that an ice plant cannot be considered such a public utility as to be included within the jurisdiction of a public service commissioner because, although a necessity, it does not sufficiently affect the welfare of the community as to require its control by the public. It may be noted that an opposite conclusion was recently reached by the Texas Commission of Appeals in *City of Denton v. Denton Home Ice Co.*, 18 S. W. (2d) 606 (see Judicial Decisions,

December, 1929), which decided that under the provisions of the municipal charter "the manufacture and sale of ice may be a public utility subject to the control of the city."

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Zoning—Release of Property from Restrictions by Vote of Property Owners Held Unconstitutional.—The Supreme Court of Illinois in *Spies v. Board of Appeals*, 169 N. E. 220, holds that the generally accepted rule, that an ordinance may provide for the exemption of property from a restriction for use to be effected by a vote of the adjacent property owners, is to be limited to those uses which are properly subject to the exercise of the police power, such as livery stables, saloons, garages, and bill boards, and cannot be extended to include community grocery stores in a residential district. The court holds that such a provision is an attempt to do indirectly what cannot be done directly, that a zoning ordinance cannot deprive the owner of valuable property rights under the guise of prohibiting or regulating any business or occupation that has no tendency to injure the public health or morals or interfere with the general welfare.

The ordinance in question contained the following paragraph:

Community stores may be established or erected for the convenience of any community at any point or place in either the "A" or "B" residence zones if there is presented to the building inspector, with the application for building permit, the consent in writing of the owners of seventy-five (75) per cent of all the property within a radius of three hundred (300) feet of the proposed establishment, provided that the regulations for setback, side-yard and rear-yard areas and height and all other provisions of this ordinance relating to the "A" and "B" residence zones are complied with. "Community store" is defined in section 3 as small store building built for the benefit and convenience of a given community, located either in the "A" or "B" residence zones.

In holding this provision invalid, the court cites as authorities: *Washington v. Roberge*, 278 U. S. 116; *Nectow v. Cambridge*, 277 U. S. 183; and its own decisions in *People v. Chicago*, 261 Ill. 16, 103 N. E. 309 and *People v. Oak Park*, 331 Ill. 406, 163 N. E. 445.

While this case turned on the extent of the power to zone, it may be noted that the method adopted was not in itself objectionable. It is well settled that a provision in an ordinance restricting a use upon a petition or vote of a ma-

jority of the adjacent land owners is invalid [*Eubank v. Richmond*, 226 U. S. 137], but that an exemption from the operation of a similar restriction imposed by law by a similar method authorized by ordinance will be sustained [*Cusack Co. v. Chicago*, 242 U. S. 526]. The question of a reasonable method of determining the area within which the consent of a majority of the property owners is required is, however, often one of great difficulty. The radial method prescribed by the ordinance in the instant case may sometimes work serious injustice by giving an undue advantage to owners of properties situated near the border line of the zone, but usually will work out to give adequate protection where the vote required is placed at two-thirds or three-fourths of the property within the area. An attempt to define a residential district by the nature of the existing use of a majority of the property within a certain distance of any given property was declared to be invalid by the New York Court of Appeals in the case of *In re Kensington-Davis Corporation*, 239 N. Y. 54 (1924) for the reason that the statute authorizing zoning contemplated fixed areas with defined boundaries.



Eminent Domain—Measure of Damages for Lands Taken—Widening of Streets.—The ever increasing vehicular congestion in municipal traffic and the attempts of city officials to provide for current and future requirements have presented anew the question as to the proper rule for measuring the damages to be paid to the owner of land, part of which is appropriated for street-widening purposes.

In the recently decided cases, *In re Bagley Avenue*, 226 N. W. 688, and *Grand Rapids v. Barth*, 226 N. W. 690, the Supreme Court of Michigan applied the rule that where part of a plot is taken to widen a street the damages may be measured by the difference in value of the entire plot before the appropriation and the value of the remainder after the taking. This rule usually works out justly to give the owner the value of the land taken where all the land in the plot is of the same value, or where the principal item to be considered is the damages to the remainder of the plot. Thus in a case where an easement alone is taken, the rule works out substantial justice because all the damages to be recovered in such a case are consequential. But where no consequential damages are sought the

owner, under the state constitutional provisions requiring just compensation and under the limitations imposed by the Fourteenth Amendment, should be entitled in any event to recover the market value of the land taken. If the plot consists of city lots differing widely in value, the application of the rule to the taking of the more valuable frontage inevitably results in penalizing the owner for his larger holdings by deducting from the value of the lots taken the benefits to the remainder. The assessment of benefits is an exercise of the power of taxation and the Fourteenth Amendment requires due process for its exercise. (*In Matter of New York*, 190 N. Y. 350.)

In the case of *In re Improvement of Third Street*, 225 N. W. 92, recently decided by the Supreme Court of Minnesota, this distinction is recognized. In setting aside as inadequate a judgment for \$3,221 for lands taken for widening the street which comprised approximately ten per cent of the whole lot, valued at over \$66,000, a result that had been reached by applying the rule of the difference in value before and after taking, the court pointed out that in the proceeding to widen the street, assessments were to be made upon the property benefited for the improvement, and that, as no consequential damages were claimed, the effect of the finding was to tax the owner in the condemnation proceeding without due process of law. The court upon this point said:

In nearly all condemnation cases which have come before this court involving the taking of part of an entire tract, the owner has claimed damages not only for the value of the part taken, but also damages resulting to the part not taken, and in many of the cases there has been involved also the question of benefits to the part not taken, to be deducted from the damages. In such cases, the rule, correctly enough followed, is that the compensation to be awarded is the difference between the market value of the entire tract as it was before the taking and the market value of the remaining tract after taking away the part. But we know of no case, where benefits were not involved, in which it was held that the landowner was entitled to less damages than the market value of the part taken as it stood before the taking. The rule for taking the value of a tract or farm before and after the condemnation to measure the damages was adopted, not for the purpose of giving the owner less than the value of the part taken, but for the purpose of permitting him to recover additional damages resulting to the remainder of his property."

The Supreme Court of Illinois in the case of *Chicago v. Cruse*, 169 N. E. 322, decided De-

cember 20, 1929, points out that where the owner has devoted several lots to one use, he has a right to have the value of the part taken considered with reference to the entire plot. In that case, the owner had placed his house on one lot and had improved other lots as grounds about his residence. The evidence showed that the part taken was of greater value as part of the entire property than if considered as a single piece en-

tirely disconnected from the residue. The primary rule that the owner is entitled to the fair market value of the land appropriated based upon its most available use was violated by the refusal of the court to charge the jury that it might be considered as part of the larger property. The increased value of a lot owned with other lots due to plottage cannot be ignored in determining fair market value.

PUBLIC UTILITIES

EDITED BY JOHN BAUER

Director, American Public Utilities Bureau

THE SUPREME COURT IN THE BALTIMORE FARE CASES

On January 6 the Supreme Court of the United States, with the usual three judges dissenting, found inadequate and confiscatory the rate of fare fixed by the Maryland public service commission for the United Railways & Electric Company of Baltimore. The decision is important because it deals with a difficult situation, and particularly because it marks fresh developments.

This company has been before the commission and the courts almost continuously for more than ten years. It has been confronted less with legal difficulties than with the practical task of securing sufficient traffic, at any level of fares, to produce the desired financial results. It had a 5-cent fare up to 1918. Then "purely as a war emergency and during the period of war conditions," it sought an increase, and on January 17, 1919, obtained the approval of 6 cents. Subsequently, the fares were advanced successively to 7 cents cash, four tokens for 26 cents; 7 cents flat; 8 cents cash, two tokens for 15 cents; 9 cents cash, three tokens for 25 cents; finally, 10 cents cash, four tokens for 35 cents. The company desires a flat fare of 10 cents. Will it now obtain a return which it will consider adequate and not confiscatory?

In the latest appearance before the state commission, the fare was fixed at a level to bring a return of 6.26 per cent upon the value of the property, placed at \$75,000,000, and was upheld by the Court of Appeals of Maryland. It was then taken to the Supreme Court of the United States, on the claim of confiscation, which involved primarily the adequacy of the rate of return of 6.26 per cent and depreciation charges.

WHAT RATE OF RETURN IS INADEQUATE?

As to rate of return, the Supreme Court found 6.26 per cent inadequate and confiscatory. The decision appears to be based upon two principal considerations: (1) The particular financial situation of the company; and (2) the position of the Supreme Court and the lower federal courts in

other rate cases. Mr. Justice Sutherland, who presented the majority opinion, for the most part took the position that the proper percentage is the rate required "in order to induce the investment of capital in the enterprise, or to enable the company to compete successfully in the market for money to finance its operations." Since 1920 the company had borrowed, from time to time, about \$18,000,000, upon which it has been obliged to pay an average rate of interest ranging well over 7 per cent—"and this has been the experience of street railway lines quite generally."

The investing public has been reluctant to furnish new capital for street railways, and has demanded high interest rates, with special safeguards for the invested funds and the return. This has been due to the high costs, increasing automobile competition, and loss of traffic against which the companies have been struggling.

WHAT WILL THE TRAFFIC BEAR?

A rate of 6.26 per cent probably is less than the present average cost of new capital for any surface street railway systems throughout the country. But there is also this fact, not referred to by Judge Sutherland, that probably few companies can make 6.26 per cent under any system of fares that may be devised, especially if this percentage is applied to a valuation based principally upon reproduction cost of the properties, and if liberal provisions are made for intangibles (\$5,000,000 in the particular instance for easements and over \$8,000,000 for going value). In obtaining such a return, a street railway company is limited by what the traffic will bear; *i.e.*, by the value of the service. There have been frequent references in rate cases to the market value of the service as a limit to rates or fares. They have been left, however, as abstractions, without concrete application to individual instances. But they probably apply to the Baltimore properties.

We have had occasion to make numerous surveys of street railway finances, and we are

convinced that the companies are yet not able to earn what would be considered ordinarily a fair rate of return, and, particularly, not a rate consistent with the cost of money for new street railway financing.

It is futile to work up a theoretical rate which has no economic reality. In most instances, the fare which will bring the highest net earnings, will probably not greatly exceed the conventional 5 cents; in most municipalities 10 cents is probably prohibitive of sufficient traffic. The companies must struggle to bring operating economies to the maximum, and to promote traffic by feasible service inducements. Litigation for higher fares would hardly seem profitable, even if nominal victory is achieved before the Supreme Court. Abstractly, 6.26 per cent may be inadequate, but actually the company will be fortunate, if, through any rate schedule, it succeeds in obtaining that percentage.

OTHER UTILITIES DIFFERENT

Judge Sutherland proceeded also more broadly to justify the decision that 6.26 per cent is inadequate, by considering other public utility cases which have been before the Supreme Court and other federal courts. In this broader field, his statements will hardly stand the test of economic analysis:

What is a fair return within this principle [that neither the corpus of a utility property, nor the use thereof, can be taken for a compulsory price which falls below the measure of just compensation] cannot be settled by invoking decisions of this court made years ago, based upon conditions radically different from those which prevail today. The problem is one to be tested primarily by present-day conditions. *Annual returns upon capital and enterprise*, like wages of employees, cost of maintenance and related expenses, *have materially increased the country over*. This is common knowledge. A rate of return upon capital invested in *street railway lines* and other public utilities which might have been proper a few years ago, no longer furnishes a safe criterion either for the present or the future. (Italics ours.)

What is true of street railway lines is not true of certain other public utilities—electric companies, for example. Street railways are obsolescent, suffering declining traffic and shattered credit, while electric companies are progressive industries, with rapidly growing business and expanding economic opportunity. As to this latter group, the facts are against Judge Sutherland's statement that annual returns upon cap-

ital and enterprise have materially increased the country over—if, as we assume, he had in mind the Consolidated Gas case, decided in 1909, when the Supreme Court held a 6 per cent return as not confiscatory. As an economic fact, the annual returns required upon new capital today for electric companies are little, if any, greater than in 1909 for utilities of like financial standing.

Prices have risen materially since 1909, but interest rates or other costs of capital are but slightly higher, if at all; there has not been the increase which Judge Sutherland would have us accept as common knowledge.

DEPRECIATION CHARGES

Apart from rate of return, the decision is important also with respect to depreciation. It asserts that the depreciation allowance in operating expenses must be based upon present value, and not upon actual cost of the properties for which replacement provisions are being made. The statement is as follows:

The allowance for annual depreciation made by the commission was based upon cost. The court of appeals held that this was erroneous and that it should have been based upon present value. The court's view of the matter was plainly right. One of the items of expense to be ascertained and deducted is the amount necessary to restore property worn out or impaired, so as continuously to maintain it as nearly as practicable at the same level of efficiency for the public service.

The amount set aside periodically for this purpose is the so-called depreciation allowance. Manifestly, this allowance cannot be limited by the original cost, because, if values have advanced, the allowance is not sufficient to maintain the level of efficiency. The utility is entitled to see that from earnings the value of the property invested is kept unimpaired, so that at the end of any given term of years the original investment remains as it was at the beginning. (*Knoxville v. Water Co.*, 212 U. S. 1, 13-14.)

This naturally calls for expenditures equal to the cost of the worn-out equipment at the time of replacement; and this, for all practical purposes, means present value. It is the settled rule of this court that the rate base is present value, and it would be wholly illogical to adopt a different rule for depreciation.

The almost universal practice among commissions in rate making is to base depreciation charges upon the actual cost of the properties. The underlying conception is to base rates upon cost; that the consumers should pay currently the actual cost of the particular units of property as they are used up in service. When an old unit has been replaced, then the cost of the new be-

comes the basis of subsequent depreciation charges. Its cost is then included in the operating expenses during its lifetime, so that again the consumers will pay for the actual cost of property consumed in service. This view has now been declared invalid. Depreciation charges must henceforth be based upon the property values as found at the time of rate making. While this shift involves serious difficulty as to practical application, both in fixing the annual charges and accumulating a proper reserve for depreciation, it does produce theoretical consistency between the basis of valuation and the basis of determining depreciation. In principle, at least, value and depreciation are dependent upon the same basic factors.

SCOPE OF JUDICIAL REVIEW

But apart from consistent doctrine, there is, however, the fact that the cost method could be followed with entire financial solvency to the industry, and with fairness to the companies as well as the consuming public. A pertinent observation, therefore, is that the decision extends the scope of judicial review beyond the mere assurance of an adequate return, to prevent confiscation; for a fair return can be obtained under either method of providing for depreciation. When prices have risen, a company's financial status may, perhaps, be better safeguarded by having the depreciation charges based upon present costs, rather than upon original cost. This shift, however, has nothing directly to do with the actual provision of a fair return, which, presumably, is the ultimate fact of judicial inquiry. If a company actually obtains a fair return, it would seem immaterial, as to rate-making policy, whether depreciation charges are based upon actual cost or renewal cost of the properties.

The decision raises the question as to the ultimate position of the Supreme Court with respect to the deduction of depreciation in determining fair value. The language used in recent decisions has laid stress upon actual or observed depreciation, and has led to contention among the companies that the deduction for observed or actual depreciation would not include obsolescence and inadequacy, or other functional depreciation, but only such elements as can be readily seen, particularly the more obvious deferred maintenance. For our part, we have not been able to see in any of the Supreme Court decisions and opinions, any such limited conception of

depreciation. While the deduction should be based upon actual examination and studies of the properties—not mere theoretical studies based upon life-tables—we have found no language stating that the Supreme Court would prevent the inclusion of obsolescence and other functional depreciation, if actually the property is obsolete or functionally depreciated.

The present decision deals wholly with the charges to operating expenses for depreciation, and not with deductions in the determination of fair value. The language employed by Judge Sutherland, however, does indicate that all elements of depreciation must be included in the operating expenses, and, presumably, the same elements would enter into the determination of fair value. If there is to be consistency between operating charges and the deduction with respect to values, then the consistency would apply also to the factors which produce depreciation.

DISSENTING OPINIONS

There was a sharp dissenting opinion by Mr. Justice Brandeis, joined in by Mr. Justice Holmes, also by Mr. Justice Stone, who, however, prepared a supplementary opinion with respect to certain phases of depreciation.

Judge Brandeis could not follow the majority in the view that 6.26 per cent upon the value of the property is confiscatory. He pointed out that the company enjoys a monopoly in one of the oldest, largest and richest cities on the Atlantic seacoast. Under these circumstances, a return at the rate of 6.26 per cent would not seem to be confiscatory. But, according to his analysis, the rate of return realized under the rates fixed by the commission was actually much greater than 6.26 per cent. He made two adjustments: first, as to the franchise or easement values allowed in the valuation; and, second, as to the allowance in operating expenses for depreciation. The two adjustments bring the rate of return up to 7.78 per cent, which comes up to the level which the majority of the court would view as adequate.

EASEMENTS AND FRANCHISES

As to the first point, the commission's valuation of \$75,000,000 included \$5,000,000 for easements. This amount had been fixed in another case, and had been included by the commission because it had been taken under the state law as the basis of taxing the company for intangibles among its real property. Judge

Sutherland, for the majority, took the position that no question was raised in the state courts with regard to the \$5,000,000; hence concluded that it was too late to raise the issue of justification, if there ever was cause for raising it. Judge Brandeis disagreed with this view, and held that the valuation must be judged under the federal rule, without regard to what may have been done under the state laws and state administration. He pointed out that the easements represent merely the rights of the company to place tracks in the public streets, and to maintain and operate them; that they are no different from franchises, and "in determining whether a prescribed rate is confiscatory under the federal constitution, franchises are not to be included in valuing the plant, except for such amounts as were actually paid to the state, or political subdivision thereof, as a consideration for the grant." (References are given to cases dealing with franchise valuations.)

If the easements are excluded, then the rate of return upon the remaining value of \$70,000,000 would be increased from 6.26 per cent to 6.70 per cent, and would come measurably nearer the rate of return commensurate with the view of the majority.

DISAGREEMENT ON DEPRECIATION

The principal point of dissent, however, is the allowance for depreciation. The commission originally had included the company's actual charges for maintenance, plus 5 per cent of the operating revenues as an allowance for depreciation. This amounted to \$883,544. The 5 per cent had been adopted many years before by the company itself, and had received the sanction of the commission as adequate, when coupled with the annual expenses for repairs and minor replacements. In its original decision the commission pointed out that the depreciation might more properly be based upon actual cost than upon a percentage of revenues; but that, in any case, the proper amount depends upon the provisions made for regular maintenance, and that the

two elements are interdependent; and that depreciation cannot be considered by itself, independently of maintenance.

The Court of Appeals of the state decided that the proper basis of determining depreciation was the present fair value, and not actual cost of the property, and directed the commission to correct its depreciation allowance in conformity with this view of the law. The commission then added \$755,116 to the depreciation charge, and adjusted the fares accordingly, so as to provide the additional revenues. The fare thus fixed was approved by the Court of Appeals, and was then carried by the company to the Supreme Court of the United States. With regard to the law, the majority of the Supreme Court agreed with the state Court of Appeals, and thus accepted the re-determination by the commission in accordance with the law.

Judge Brandeis disagreed with the majority as to the law—that depreciation charges should be based upon present value rather than upon cost. He pointed out that proper depreciation charges must be considered in conjunction with the expenses for maintenance, and that actually the 5 per cent provision fixed by the commission had made adequate allowance for renewals, and that the company itself had based its dividend payments upon that level of depreciation charges.

Judge Stone pointed out, in addition, that even if it were assumed that the function of depreciation charges for rate-making purposes must be taken to be the establishment of a fund for replacement of plant, rather than the restoration of cost, or value of the original plant investment, the present value would not give the measure for replacing all the elements of a composite property purchased at various times, at varying price levels. What the required amounts would be is a question of fact, and not of law. This cannot be answered by a *priori* reasoning. Experience is the only guide; and the actual experience for fifteen years of high price levels indicates that the provisions made by the commission have been adequate.

MUNICIPAL ACTIVITIES ABROAD

EDITED BY ROWLAND A. EGGER

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Housing in London.—The recent developments in the housing projects of the London County Council, involving probably the most comprehensive attempt yet made to cope with housing congestion in metropolitan areas, should be of especial interest to American students of municipal affairs. The Report of the L. C. C. Housing Committee for 1924 outlined a ten-year program for the area involving the construction of approximately 150,000 houses. Since the War over 200,000 houses have been constructed in Greater London. Of these, 70,000 have been built by municipal authorities, with the assistance of state subsidies. The L. C. C. has built over half of the municipally constructed dwellings. It should be remembered that urban London extends far beyond the limits of the administrative county, and that of the twenty-eight boroughs in the county, only four have any available land left upon which to locate housing projects; moreover, except with the consent of the Ministry of Health, they are not empowered to purchase land outside their corporate limits for such purposes.

OVERCROWDING

One of the most difficult problems in the London region is that of overcrowding. The following statistics, compiled from the 1921 dwelling-places census, are indicative of the living conditions of considerable portions of the population:

Persons living:

2-3 per room	370,000
3-4 " "	231,000
4-5 " "	60,000
5-6 " "	15,000
6 and over	6,000

The by-laws of 1926 provide that "a person shall not knowingly cause or permit any room in a lodging house wholly or partly used as a sleeping apartment to be occupied at any one time by a greater number of persons than will allow 400 cubic feet of free air for each person. . . . As far as practicable a person shall not cause or know-

ingly permit persons of different sexes above the age of twelve years and not being persons living together as husband and wife to occupy the same sleeping apartment." As E. M. Dence, chairman of the L. C. C. Housing Committee remarks, however, "You cannot convict the owners and occupiers of overcrowded dwellings, at least, until you have been able to come to their help in reducing the number of persons living in the houses." As a consequence, the law is enforced only as dwellings constructed by the L. C. C. or borough councils enable it gradually to be enforced.

RENTS

Another of the perplexities of the L. C. C. is the difficulty of providing hygienic dwellings for the laborers in the lower wage scales. There are three classes of laborers who occupy these dwellings:

1. The skilled artisan, clerk, etc., who is able to pay from 12 to 24 shillings weekly rent.
2. The common laborer, steadily employed, who can pay from 8 to 12 shillings.
3. The poorest section of the community, which is, in some measure, dependent upon the dole.

The greatest difficulties come in housing the two latter classes. For them the council, in the degree to which it has been able to make appreciable headway, has provided dwellings as sanitary and hygienic as possible, but plainer, and less elaborate, embodying such features as common entrances for two or more apartments, common washrooms, etc.

SLUM CLEARANCE

There are two types of slum property in London today: (1) insanitary property, for which there is no remedy but demolition; and (2) overcrowding of houses, which, but for that state of affairs, might, when properly reconditioned, provide decent habitation for single families until replanning and rebuilding is possible. It is now proposed to deal with about

30 areas, covering some 200 acres, and involving the displacement of approximately 60,000 persons. It is contemplated that this clearance project will occupy about five years. Legislation regarding compensation for clearance is inadequate, inasmuch as it makes no distinction between insanitary dwellings, and those which are simply overcrowded without being insanitary *per se*. The remedying of this legal defect is an indispensable antecedent to comprehensive reconstruction.

TOWNS AND HOUSING ESTATES

"It is one thing to speak of mass production when making gas mantles or pencils, and quite another to reap the economical benefit of mass production by the building of great estates." After considerable experimentation, Mr. Dence seems convinced of the advisability of coördinating public and private housing projects with already developed urban movement, in order to avoid special streets and sewer installations, and the expense of providing commercial facilities for the inhabitants. "As he remarks, building a great housing estate of 3,000 dwellings and upwards is in effect building a town, with the necessary incidental overhead and capital outlays.

HOUSING AND THE FUTURE

Although over 130,000 houses have been built in the county of London by private construction since the War, most have been for sale purposes, and also cannot be regarded as workmen's dwellings. Houses for sale purposes can hardly alleviate the situation for such classes of people, because of a transitory element in occupation, and also because of their incapacity to meet any rental surcharge for capital repayment. Too, private ownership of rental property of the dwelling type has ceased to offer an attractive opportunity for private capital. The future of London housing is a task of public character. —*Public Administration*, January, 1930.



A Bureau of Research at Toulouse.—For the purposes of technical improvement and coöperation, the municipality of Toulouse proposes to create, within its administrative organization, an *Office de Renseignements*, for the benefit of mayors of rural communes within the area. The office is designed to be a bureau of research and information; but in addition, and more importantly, an agency for reworking the 6,000 docu-

ments relating to local administration, issued each year by the central government, into a brief and intelligible form for the purposes of the mayors and also for the members of the Deputies.

It is expected by this means to acquaint administrative officials throughout the area with the major projects of local government advanced in different sections of the republic, and particularly those concerning relations between the great cities and the small communes. The office does not, however, supplant *l'Autorité Supérieure*, the official organ of legal advice for the communes. The Government, and especially the ministry of the interior, has encouraged the initial effort exhibited in this instance toward coöperative effort and the standardization of municipal projects. It is thought that the extension of the principle here inaugurated will be of inestimable value also to the Deputies and to the central administration in legislation, and the issuance of administrative decrees, upon municipal subjects.

It is proposed to supply the library of the office primarily from gratuitous contributions by the various technical reviews, the publications of the different ministries, and the service of the official journal. Analogous American organizations doubtless might offer illuminating comment upon the feasibility of this plan. The proposal does promise, however, a vast improvement upon the present conspicuous absence of research and information in the activities of both central and local governments with respect to municipal projects—a consequent, if not a corollary, of the complete centralization of French local administration.—*Revue Municipale*, November, 1929.



The Traffic Problem in Berlin.—The transit system of Berlin is generally conceded to have been built with as much wisdom and foresight as is customarily attributed to the framers of the American Constitution. The *Reichbahn*, the *Ringbahn*, and the *Stadtbahn* all were designed to prevent over-concentration, having encircling rather than radial routes. Berlin's street system was built to accommodate traffic for decades to come. In spite of it all, the city has developed an acute traffic problem. The complicating factor seems to have been the phenomenal increase in automobile transportation.

With customary thoroughness, the municipal officials have installed a complete system of timed signal lights, and also have instituted a compre-

hensive plan of routing peak traffic. All the streets have been reclassified, and the number of boulevards, or "stop streets," has been increased from 60 to 116. In connection with the street classification, restrictions have been imposed upon maximum length, width, and weight of all vehicular conveyances except rail-carriages. In order to preserve unobstructed vision of signal lights, total height of vehicles has been limited to four meters.

Because of the decentralization of purely local, or neighborhood, business enterprises and of considerable industrial work, which was among the objects of the rapid transit system, Berlin's problem is not as acute as that of many smaller cities, and doubtless is susceptible of treatment by the mild processes herein outlined. The same problem on Manhattan has produced a condition which makes vehicular traffic a travesty upon the art of locomotion. If Berlin's experience is of any significance whatever, it would seem to be as an indication of the real situs of the traffic problem—which is essentially an ecological one. Berlin's industries are scientifically placed; her transit system is designed to contribute to the original suburban development or re-centralization of commercial and industrial activity as those unable profitably to occupy central portions of the city are forced out. A comprehensive system of zoning and planning operates to stabilize the investment after readjustment has been made. There is more than a passing probability that therein, rather than in skyscrapers, subways, and many-decked streets, lies the solution to the problem of urban traffic congestion.—*Bulletin de l'Association Permanente des Congrès de la Route*, October, 1929.



Roadbuilding from Gasoline.—The growth of automobile traffic, some results of which have been noted above, moves Dr. Goslar, of Berlin, to consider political economy. In view of the fact that a license fee bears no relation to highway usage, and does not adequately distinguish between commercial and personal vehicles as contributing factors in the problems of roads and traffic, Dr. Goslar believes that a mileage tax, most easily imposed by a levy upon fuel consumption, is the only equitable solution of the problem.

For illustration of his point Herr Goslar repairs to Switzerland. Arguments of road net-

works for defense have no application here. The natives are notably home bodies. The only considerable industry of the country is the tourist business. Hence, there is no real objection to a rather rigid application of the benefit principle in allocating governmental costs, at least in so far as highways are concerned.

Highways in Switzerland are divided into two categories. There are first the cantonal highways, and second, municipal streets—in the construction of which the canton assists. The experience of certain of these cantons, particularly Zürich, Berne, Geneva, Lucerne, and the old *Patrizierstadt* Basel, has been particularly illuminating. It has indicated that, for the purposes of effecting a relationship between road use and taxation for road costs, the automobile license tax is entirely unsatisfactory. While the cantonal budgets have been decreasing, the *Bundes* income from the tax on petrol has been increasing. Also, the expenditures of the cantons for highway purposes have increased—unduly, in fact, considering the general budgetary schedules. The *Nationalrat* has, therefore, passed a resolution looking to a coördination of highway construction costs and petrol taxation.

The particular manner of application of this principle—long familiar in the systems of state taxation in the United States—by Switzerland will be viewed with considerable interest by American students of public finance; it is rendered additionally significant for its possible centralizing effect upon the relations between central and local governments.—*Der Städtetag*, December 3, 1929.



Irrigation and the Metropolis.—The coördination of provision for municipal water supply and irrigation facilities for horticulture is a possibility which has intrigued Dr. Lanninger of Frankfurt-am-Main. The argument for the extension of metropolitan activity to this field is not involved. One of the primary problems of metropolitan government is that of food supply for its inhabitants; the availability of fresh greenstuffs, a good portion of which must, or economically should, be produced in its surrounding area, is an important factor in the proper performance of this function.¹ Hence, irrigation is as appro-

¹ See also in this connection Böss, G., "Die Verwaltungsgemeinde Berlin und Ihre Aufgaben," *Zeitschrift für Kommunalwirtschaft*, Oct. 10, 1928; translation of which appears in this REVIEW for January, 1930, p. 14.

priate a metropolitan function as are the provision of markets and the extension of credits for horticultural development.

From a technical point of view, Dr. Lanninger points out that such coördination is economically desirable. It permits experimentation and development of pumps and pressure contrivances of the metropolitan fire organizations which would otherwise lie idle, to say nothing of giving the local voluntary fire brigades experience and something to do in their idle moments.¹ It is at least as noble an enterprise as the free shower baths which many of our own fire departments provide in the poorer wards during the summer months.

While Dr. Lanninger's suggestion as to the expansion of the scope of municipal water supply is entirely creditable, there is a possibility that the ends of economy might better be served by the maintenance of municipal protective activities in a state of constant readiness for their really primary purposes. The matter of technical development in force-pumps and pressure devices is entirely pertinent as a possible legitimate activity of the metropolis. All in all, the suggestions contained herein are entirely relevant to the problems of the contemporary *grossstadt*, and ultimately will doubtless be involved in the integration, centralization, and extension of metropolitan areas, as well as in the development of regional planning.—*Zeitschrift für Kommunalwirtschaft*, December 10, 1929.



Dresden's Technical Institute.—The *Technischen Lehranstalten* of the city of Dresden—

one of the foremost introductory technical schools in Germany—is an outgrowth of an old private trades school. Prior to the Franco-Prussian War, its curriculum was very restricted, comprehending only the elementary subjects and the basic pure sciences. By 1886, however, its enrollment had increased to over 400, and its curriculum slightly broadened. With subsequent industrial development, and the growth of interest in technical education, its student body has increased to 2,500, to which point it is restricted at the present time.

Its curriculum includes mechanical engineering, electrical engineering, structural engineering, and general industrial organization, in addition to the introductory arts and sciences. Its courses are integrated for the training of both technicians and engineering apprentices, with a continuation curriculum for the latter class.

The school is under the direction of a committee of the municipal assembly. Its avowed purpose is to produce an adequate supply of trained technicians and engineers for Dresden industry and for the public services. The Dresden institution represents a distinct departure from the customary technical school encountered throughout Germany in the liberality of its curriculum, and also in the extension of its courses to provide training of practically professional grade.

It should be noticed that the development of industrial and trades schools, as well as the development of municipal engineering institutes of the type described, has greatly contributed to the maintenance of the purity of German university instruction even under the democratizing influences of the post-war period.—*Der Städtetag*, January 6, 1930.

¹ See this REVIEW for April, 1929, p. 271.

GOVERNMENTAL RESEARCH ASSOCIATION NOTES

EDITED BY RUSSELL FORBES

Secretary

Recent Reports by Research Agencies.—The following reports have been received at the central library of the Association since January 1, 1930:

Bureau of Municipal Research of Philadelphia:

Progress Report for the Year 1929.

Detroit Bureau of Governmental Research:

Survey of the City Government of Atlantic City, N. J.

California Taxpayers' Association:

Report on the City of Pasadena, California.



New Bureau at Baltimore.—The Commission on Governmental Efficiency and Economy of Baltimore has appointed D. Benton Biser as director of the new organization. Mr. Biser took office on February 1. He is a graduate of Johns Hopkins University and has taken graduate work in engineering there. He has served in the state department of health as a sanitary engineer. When appointed director of the new research bureau, Mr. Biser was assistant engineer in the water department of the city of Baltimore.



Buffalo Municipal Research Bureau.—Harry H. Freeman, director, is conducting a series of weekly radio talks on "What the City Government Is Doing." The talks are delivered over WMAK every Wednesday evening from 7:00 to 7:10.



California Taxpayers' Association.—The research department has completed a study of fifteen California municipal libraries, covering circulation, size, employees, and expenditures for the year 1926-1927. In the libraries studied, expenditures per volume circulated ranged from 6 cents to 13 cents. The expenditures per volume available ranged from 24 cents to \$1.26. No correlation, however, was found between expenditures and volumes available, for in some

instances the library with a moderate number of volumes has a high expenditure, and vice versa. Library expenditures per capita showed a wide variation, ranging from 25 cents to \$1.32.

The study of the Pasadena system of assessing and collecting taxes reveals that, by consolidating the city tax assessing and collecting with that of Los Angeles County, the city could save \$54,171 annually. The general laws of California empower municipalities to contract with the county to have tax-assessing and collecting done at a cost not to exceed one-half of one per cent of the total amount collected.

The Association is making a detailed study of the operations of tax assessment lien sharks in Los Angeles County. Some twenty-five hundred cases have already been examined, revealing extensive operations on the part of lien sharks who are extracting unnecessary attorney's fees and charges from the taxpayers who have allowed their assessments to become delinquent. A recommendation has been made to the city council that the city clerk be made responsible for procuring the names of and notifying all property-owners involved in assessment districts.

The educational commission of the Association is coöperating with the California State Educational Commission, recently appointed by the governor. The commissions are devoting their energies to studies of a larger school unit in the state.



Citizens' Research Institute of Canada.—In October, 1929, the director was appointed chairman of the Vancouver Civic Salary Survey Commission. The reports have been completed and presented to the Vancouver City Council.

The Institute is now engaged in an administrative and financial survey of the township of York—a suburb of Toronto with a population of about 60,000.

The *Proceedings* of the 1929 annual convention of the Canadian Tax Conference of the Institute have been published. Orders for copies were

received from all over the Dominion and from many places in the U. S. A. The price per copy to non-members is \$2.00.

The first of the annual *Cost of Government in Canada* series, Story No. 1 (Municipal Government) has been issued. Story No. 2 (Provincial) is in course of preparation and will be issued in the near future.

A study has been made of the double taxation of dividends and a report issued giving suggestions for more equitable taxation. This report has been highly commended and numerous requests for additional copies have been received.



Civic Affairs Department, Indianapolis Chamber of Commerce.—The department is making progress in its plan to bring about joint action by the city, county and school city officials in the formulation of a long-term program of capital improvements. Mayor Reginald H. Sullivan and members of the board of school commissioners, who took office on January first, have informally approved the plan and it has hoped to start joint conferences on the matter very soon.

The department has completed a study showing the effect on future tax rates of additional appropriations and appropriation transfers made in the county budget during 1929 and the first month of 1930. The department plans a report on the litigation of the past few years affecting the civil city tax rate through condemnation proceedings, appeals from assessments for street improvements, and damage suits on account of improvements.



Kansas City Public Service Institute.—The Public Service Institute is at present making an analysis to determine the amount and distribution of special assessments of all kinds on the business district of Kansas City during the past twenty years. It is hoped to determine something of the method of spreading the assessments, the extent of the burden of special assessments, and whether the business district is assessed part of the expense of other districts of the city merely because it has high value properties which can afford to pay.

Continuation of follow-up work on the police survey, county government reorganization, and other studies which have been under way for some time constitute the principal present activities of the Institute.

Philadelphia Bureau of Municipal Research.—

The Bureau has recently issued a memorandum entitled "Procedure and Time Required to Authorize Loans of the City of Philadelphia," which was prepared by Robert J. Patterson, chief accountant. This memorandum contains an explanation of the different kinds of loans which the city can issue and also outlines the legal requirements for each step in the authorization of each kind of loan, the minimum time required between each necessary step, and what, in the judgment of the Bureau, would be a reasonable time and a reasonable maximum time from step to step. The memorandum contains an appendix in which are set forth those portions of the constitution and laws of Pennsylvania which relate to the authorization of loans by the city.

During the time when both the city council and the board of education were considering their budgets for the year 1930, the city controller, who is also controller of the school district, proposed that certain alleged surpluses in the sinking funds of both the city and the school district be used for the purpose of decreasing the tax rate.

The controller claimed that there was a surplus of approximately \$2,000,000 in the school district's sinking funds, but gave no explanation of how the surplus had been computed. The secretary of the school board came to the Bureau of Municipal Research and asked it to make a calculation of the required sinking-fund reserves, both on the basis upon which the funds had been established and operated and also on that basis except as it would have differed if $3\frac{1}{2}$ per cent per year had been assumed as the rate of earnings, instead of 3 per cent. The Bureau made the necessary calculations and found that at the close of December 13, 1929, the sinking-fund assets (a small portion estimated) would be less than the required accumulation by \$350,490.87, and that on the basis of the funds having been established on the $3\frac{1}{2}$ per cent earnings basis there would have been a surplus accumulation of \$80,290.39.

The findings of the Bureau were submitted to the secretary of the school board, and by him to an actuary, who checked and approved the calculations and conclusions. Later they were adopted by the finance committee of the school board and subsequently by the board itself, which declined to accede to the controller's request that the tax rate be reduced.

At the instance of the city controller, two

prominent insurance company actuaries were employed to make a calculation of the city's sinking funds. These actuaries reported a surplus in the funds of over \$7,900,000. This figure was so far in excess of any that the Bureau had ever been able to arrive at that the Bureau undertook to check the actuaries' figures. It was found that they had adopted a method which ignored several clearly defined legal requirements of the city's sinking funds, and had also ignored some essential practices which had been followed in the administration of those funds. As a result, the actuaries reported a surplus larger by over \$5,585,000 than it actually was. The Bureau accordingly addressed a communication to the city council directing attention to the elements in the actuaries' calculations which it was felt made them inapplicable to the city's sinking funds. This communication was accompanied by tables comparing the calculations made by the actuaries with the Bureau's calculations, which were based upon the city's practice and the legal requirements covering the sinking funds.

A second communication, together with a table, was prepared and set forth the amount of the surplus in each sinking fund which the Bureau felt it was legal and proper to take. It is the Bureau's contention that under the law the most that can be done is to reduce the normal contribution to a sinking fund by the amount of the surplus in that fund. On the basis used by the Bureau, only a little over \$2,000,000 could be taken, whereas under that used by the actuaries approximately \$4,000,000 could be taken. However, as a result of the city controller's efforts, advantage was taken of practically the entire \$7,900,000 of surpluses reported by the actuaries, through reductions in the regular appropriations to the sinking funds. Surpluses in excess of the normal appropriations to the particular sinking funds were even transferred to other funds and their appropriations accordingly reduced. The controller at no time furnished the city council with sufficient detail to enable the members to deal with the problem intelligently. Consequently, there has been a serious under-appropriation to the sinking funds and questions have been raised which may have to be settled by the courts.



Schenectady Bureau of Municipal Research.—
As the first step in the adoption of the Schenec-

tady long-term financial program, the city council has ordered 1,000 copies of our report printed for general distribution. The Bureau of Municipal Research and the Chamber of Commerce will take an additional 2,000 copies for their respective members. As soon as a reasonable time elapses after the appearance of the printed report, the Bureau will begin a campaign for the establishment of a permanent capital budget commission. The directors of the Bureau regard this as the most important project facing the organization.

The managing director of the Bureau has been invited by William P. Capes, executive secretary of the New York State Conference of Mayors and Other City Officials, to serve as a member of the instructional staff of the first New York state school for fiscal officers which will be held in Albany late in March. This training course for municipal fiscal officers is part of the general plan for the education of all classes of city officers. The director of the Bureau will discuss capital budgeting.

The city has for some time been contemplating the establishment of a municipal golf course. Several possibilities are open in this direction and the Bureau staff has made a study of the matter. In addition to a survey of the golf facilities of the city, the report includes a summary of the problems encountered in the construction and operation of public golf courses in the United States.

Members of the staff have been actively engaged in the police survey. At the present time, spot maps, showing the location of all complaints and arrests by precincts, collision and accident locations, signal systems, patrol beats, etc., are being prepared. Local police authorities are coöperating with the Bureau in making all data available. The preliminary legal phases of the study are practically completed.

The series of radio talks which has been given over WGY and associated radio stations, in conjunction with the New York State Mayors' Conference, has proved so popular that broadcasting authorities have granted an additional period of sixteen weeks for an extension of these talks. The speakers in the new series have been C. A. Holquist, director of the Division of Sanitation, New York State Department of Health; Frederick F. Futterer, director of recreation, Albany; Senator J. Griswold Webb, chairman of the New York State Aviation Commission; and William P. Capes, executive secre-

tary of the New York State Mayors' Conference. The program is given over WGY and associated radio stations on Saturday evenings from 7:44 to 7:59 P.M.



Stamford (Connecticut) Taxpayers' Association.—A resolution was unanimously endorsed both by the meeting of the Association trustees and by the annual meeting of the Association membership to recommend the council-manager plan to the Mayor's Charter Revision Committee, now at work, and further pledged the Association to the conduct of an educational campaign on all forms of government and especially the manager plan.

The Association's annual meeting also instructed the trustees to circulate a petition requesting a special town meeting at which there should be considered the report of the town tax commission which was laid on the table by a town meeting a year and a half ago. This report, among other things, recommended the installation of an equitable system of assessment.

After a talk by W. F. Gillespie, president of the Association, in which he explained the recommendations of the report, the meeting voted unanimously to authorize the financing and installation of a modern assessment system.



Toronto Bureau of Municipal Research.—The Bureau has sustained a great loss in the recent death of its president, Mr. Walter J. Barr.

Stories No. 2, 3, and 4 in the series on motoring safety have been issued. Requests for copies of these White Papers have been received from all over the Dominion as well as in a number of cases from the U. S. A.

The Bureau is compiling its 1930 issue of "Toronto at a Glance." This publication is a 208-page reference book dealing with Toronto and its community life and is distributed as nearly as possible at cost.

Following the report and chart on the present organization of Toronto's civic government, a chart of a proposed organization and a report in connection therewith has been prepared.

NOTES AND EVENTS

EDITED BY H. W. DODDS

Chicago Politicians Out-fiddle Nero.—The financial difficulties of Chicago's local governments continue to grow in number and complexity. Immediate concerns are: the inability to meet payrolls and to dispose of 1930 tax-anticipation warrants. Several barriers have also been raised which make alleviation of the immediate predicament and the eventual solution of the entire problem more difficult than ever before. These new complicating factors are: the refusal of the Thompson administration to coöperate with the citizens' "rescue" committee, and the revaluation of "loop" property recently ordered by the board of review. Another important angle of the situation was revealed when Governor Emmerson, in a conference of local assessing officials, called upon them to cease political maneuvering and to complete the reassessment. The governor is concerned over large revenues due the state from Cook County which now remain unpaid.

The financial situation means embarrassment and even distress to the more than 40,000 employees of the local governments involved and the thousands of pension-families and other indigent persons dependent upon the public for support. The county has paid no salaries since December 15, nor the other bodies since January 1. At this writing (February 10) no pay days are immediately in sight. The future is even darker for the employees inasmuch as the funds now legally due, even when actually in hand, will be insufficient to operate the governments for the entire fiscal year.

None of the local governments has been able thus far to sell 1930 tax-anticipation warrants. Several separate issues have been offered, but no bids have been received. The banks refuse to buy more temporary paper until the entire problem has been worked out and a solution has been accepted by all parties concerned.

The plan to pay employees and to meet other bills with anticipation notes of small denominations was proposed, but was abandoned by all the local units excepting the city hall. The citizens' committee, of which Silas H. Strawn is chairman, pointed out that the scrip would be

heavily discounted. The association of local bankers also advised its members not to honor such warrants. City hall, however, has paid some of its larger obligations with this tender.

All governments, excepting city hall and the board of education, have coördinated their efforts to raise payroll cash through the citizens' committee. The committee seeks to raise \$50,000,000 by inducing large taxpayers to buy warrants in lieu of cash payment of taxes later on. The association of loop building-owners pledged \$10,000,000 towards the pool for "essential" services. The citizens' committee insists upon full coöperation and acceptance of its program by all the local governments before disbursing any of the fund which it will undoubtedly be able to collect in this way.

Even though the city council has voted to coöperate with the citizens' committee, the mayor and the president of the board of education, a Thompson appointee, refuse to join in the plan. The school board head proposes another "rescue" committee. Meanwhile he has tried, unsuccessfully thus far, to sell \$48,725,000 of school warrants to outside bankers. The mayor and the school head also demand a revaluation of the central business district, alleging that in the reassessment the "reformers" lopped off \$300,000,000 from loop tax valuations. The mayor seeks to engender sectional antagonism between the central business district and the outlying residential communities. Actually, it has been shown that the reassessment gave the "black belt," a Thompson stronghold, a percentage reduction twice that afforded loop property.

Nero was a piker compared with the officials who seek political capital out of Chicago's predicament, alleges Mr. Strawn. While the fiddling goes on and the completion of the reassessment is delayed by factions which profited by the old order of things, the solution to which the citizens' committee appears committed seems inescapable for all involved. The state supreme court recently again refused to hear the petition of a local taxing body to void the reassessment and reinstate the 1927 quad-

rennial valuations. No taxes can begin until the reassessment is completed and June 1 has been announced as the date of completion. Up to June 1 the local governments will need \$52,000,000 to meet salaries alone.

In addition to bending its efforts to provide funds for payrolls, the citizens' committee is quietly formulating a program of remedial legislation for consideration by the state legislature. The governor is expected to call a special session after the April primaries, but then only if a definite program of legislation has been worked out and agreed upon. When a program of sound and permanent relief is completed it is difficult to see how the mayor and his cohorts can escape from coöperation.

EDWARD M. MARTIN.

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The New Administration in Cleveland.—As forecast in the last issue of the REVIEW, the Cleveland City Council on January 27 appointed State Senator Daniel E. Morgan city manager to succeed William R. Hopkins, deposed. Six of the councilmen who had voted against the ouster of Hopkins joined the majority in supporting Morgan, who received nineteen votes out of twenty-five. Six councilmen voted for other candidates as a protest against the selection of a manager in Republican caucus, but expressed regard for Mr. Morgan and promised their sympathetic coöperation.

In his speech of acceptance Mr. Morgan pledged himself to do everything in his power to give the manager plan a fair trial and emphasized the separation of functions of the council and the manager as outlined in the city charter. He said he expected to be kept very busy in his own province of administration and for several months would turn over all requests for public addresses to Mayor John D. Marshall, the president of council, who is supposed to be the ceremonial head of the city. This is a significant change of policy, for in the past Manager Hopkins has largely fulfilled the mayor's functions as well as his own, while certain councilmen have constantly trespassed on the manager's domain in the matter of appointments.

Mr. Morgan is a man of unquestioned ability and integrity, but also a staunch Republican who apparently believes in the usefulness of national parties even in municipal affairs. For that reason Cleveland awaited his first appointments with bated breath. So far there have been few

changes. Five of Mr. Hopkins' seven directors are being retained, and A. J. ("Gus") Hirstius, chairman of the Republican county executive committee, has made a speech to the party workers about the noble aims of the party and the civil service provisions of the charter. This pronouncement indicates pretty clearly that there is to be no general overturn of personnel and no attempt by the party to dictate the manager's appointments. On the other hand, the two departments whose directors have been changed are the two which include most of the city jobs. Service Director Harding, a trained engineer with an admirable record, has been replaced by Rees H. Davis, a lawyer of good reputation and a former member of the school board. Utilities Director Wright, the only Democrat in the Hopkins cabinet, has been replaced by another lawyer, former State Representative Everette H. Krueger. And the city treasurer, Adam Damm, an active Democratic leader, has been replaced by Russell V. Johnson, who served in both the city and the state Republican administrations of former Mayor and Governor Harry L. Davis.

The general impression is that Mr. Morgan will try earnestly to give the city the finest possible Republican administration, with strict observance of the city charter and with the public's interest always in mind. That he will not be under the domination of the party machine is indicated by his choice for his personal secretary of Albert I. Cornsweet, politics editor of the *Cleveland Press*, which during last fall's council campaign said editorially: "We believe that the Maschke-Finkle-Hirstius (Republican) organization is the enemy of this city, and that its removal from power is the most important issue before the people today." The public is adopting a policy of watchful waiting, with a predisposition in the new manager's favor.

Meanwhile the city council, to quote *Greater Cleveland*, organ of the Citizens' League, "has started off so well in the complete reorganization of its rules and committees, and also in committee attendance, that it looks as if the new council intended to be a really deliberative body."

There are continued rumblings of fresh attacks on the manager plan and proportional representation, but the friends of these reforms feel that the situation is more hopeful than it has been for some time.

GEORGE H. HALLETT, JR.

Sacramento Removes Its Manager.—Harry A. Kluegel, an engineer of some standing in corporation, army, and bureau of research work, was appointed city manager of Sacramento, California, on October 15, 1928, to succeed H. C. Bottorff, who had been removed by the council. The removal of Mr. Bottorff, after five years of service, was the result of a campaign and an attempt to reduce taxes.

Soon after Mr. Kluegel reported for duty he was approached with a demand that a certain person be appointed chief of police. This request, like many subsequent ones, came indirectly from those outside of the city council, possibly due to the fact that the charter has the usual provision prohibiting a councilman from approaching the manager on appointments or the awarding of contracts.

It was not until February of 1929 that any criticism was made of the operation of the manager's office. Mr. Kluegel had installed in the police department a set of records for the proper recording of the activities of that department. There was much opposition to these records, or, for that matter, to any records being kept in the police department. One officer told the manager that the police department was for the purpose of "manipulation" and not for "operation." At a later date the state of California passed a law making mandatory the use of similar records in all police departments.

On February 5, 1929, Mr. Kluegel demanded a clean-up of the vice conditions which were existing in Sacramento. It must be remembered that this city still retains something of the spirit of the old mining camps. Mr. Kluegel's campaign was against the parasites, pimps, and drug peddlers especially. Bootleggers, gambling joints, and houses of prostitution were running openly and apparently under police protection. One prominent official claimed that this condition was a business asset and a necessary factor in the capital of the state. The day following this announcement, the council debated the ouster of Mr. Kluegel.

On February 12 the council demanded his resignation, which was refused. The group within the council which sought his resignation then asked him to remove five heads of departments and replace them by certain well-known politicians. In March the council again took action to remove Mr. Kluegel. During this time all but one of the newspapers, bankers, women's organizations, ministers, and business men were

behind Mr. Kluegel for a clean-up of the vice conditions which existed. The grand jury described minutely the occupation and activities of the pimps and parasites, their relation to thieves, gangsters, and racketeers, and the necessity for the citizens of Sacramento and their duly elected and appointed officials to remove these conditions from the city.

Soon after this condition started, Mr. Kluegel installed sets of traffic signals and recommended the installation of a police telephone system of makes contrary to the wishes of certain members of the council, but with a saving in the appropriations made for these purposes. This caused criticism that Mr. Kluegel was favoring certain contractors in the supplying of equipment for the city. Mr. Kluegel answered all of these criticisms by saying that the chief of police would be of his appointment and directly under his orders, that he did and would padlock the most notorious "joint" in the city, which was owned by the leader of the opposition, that he would not allow the manipulation of the police department for the protection of vice interests, and that business and not politics would be the method of operation of all of his departments.

In April a movement was started to oust the members of the council and the opposition to Mr. Kluegel was removed for awhile in what seemed to be a perfect harmony of coöperation. A decided cut in the tax rate was predicted and afterwards put into effect. An article in the *American City* of November, 1929, explains one of the large savings made by Mr. Kluegel. This amounted to approximately thirty thousand dollars in the collection of garbage over the methods used in previous years. In May a new attempt to remove Mr. Kluegel failed by a vote of five to four, with six votes needed to remove. At this same time an attempt to reduce his salary failed in the council, although it was finally reduced to nine thousand dollars on June 13. In July Mr. Kluegel showed that the savings for the first quarter of the year had amounted to forty thousand dollars and in August the tax rate was reduced by two and a half cents per hundred dollars.

In the election of November the council-manager form of government was not an issue. The opposition group, known as the Unity League, promised that there would be no upset in the office of the manager but that they were attempting to elect a more representative council. On January 8 the *Sacramento Bee* announced

that this "clique" of seven members elected by the Unity League would govern the city during the next two years and that four of the nine members of the council would control its action. The League promised that it would not follow the practice of its predecessors in "wrecking the government by decisions made not in the interests of governmental efficiency but to please or repay the backers of their ticket." At this point the new members of the council turned on their promise to the voters and began casting about for a new city manager despite repeated statements that the present management was to be given a chance to accomplish its program.

Subsequently, on January 23, 1930, James S. Dean, an architect, was appointed manager at a salary of ten thousand dollars and Mr. Stephens was appointed city treasurer. Both of these men were members of the executive committee of the Unity League. The appointment of Mr. Dean takes effect on March 1. In the removal of Mr. Kluegel there was no opportunity given to his two supporters on the council or to himself to present any arguments against this removal and the election of the new manager.

Subsequent to the removal of Mr. Kluegel, the newspapers have published editorials and open letters supporting the city manager form of government and speaking very highly of the results of its operation under the removed manager. These comments have shown that the form of government is endangered by the type of politics which is being played in the sustaining of conditions which are obviously not to the best interests of the city. They point to the honest, efficient, and fearless administration of affairs of the city and the ignoring of all threats of politicians and outside interests during the administration of Mr. Kluegel. His savings in the operating budgets were relatively large and of considerable importance. It is well known that it has been a much more efficient operation of all details of the administrative departments.

It seems to be the unanimous opinion of the friends of good government that Mr. Kluegel was a particularly alert, conscientious, and able manager. He has left a fine record of accomplishment behind him and by persistent effort for more than a year has been able to show the people of Sacramento that there are certain influences at work which can and will control any form of government to the satisfaction of their

desire for a wide-open city. This past year has shown an interesting and very valuable experience and despite the bitter disappointment of those who are interested in the honesty and efficiency of municipal administration, it is well that we should pass through such conditions in order that we may know the type of opposition which the manager in person and the type of organization must face in order to bring satisfactory results.

EDWIN A. COTTRELL.

Stanford University.



First Project to Reconstruct New York's Lower East Side Begun.—The first step toward reconstruction of the congested areas of the lower East Side of Manhattan under the auspices of the New York state board of housing has been announced by the publication of the architects' plans for the model six-story, elevator dwellings soon to be erected on the site formerly occupied by the Hoe printing press factory, which covered the blocks bounded by Grand, Columbia, Sheriff and Broome Streets. Demolition of the factory buildings will be completed this month and construction of the model residential buildings will begin immediately thereafter.

This site was acquired a few months ago by Aaron Rabinowitz, a member of the state board of housing and by Lieutenant Governor Herbert H. Lehman. The total cost of the project will be \$1,500,000, of which \$320,000 represents the cost of the land. Approximately two thirds of the total cost will be advanced on first mortgage by the Bowery Savings Bank under the terms of the State Housing Law which provides that the annual interest shall be limited to 5 per cent. The mortgage will run for a term of twenty years with a low rate of amortization.

Actual construction will be undertaken by a limited dividend corporation created under the terms of the State Housing Law to operate the buildings at cost, with a maximum return on the capital invested, limited to 6 per cent per annum. This corporation, to be known as Amalgamated Dwellings, Inc., has been created by the Amalgamated Clothing Workers Union of America, to whom the site has been transferred by the present owners at cost.

On the completion of this project the Union will have sponsored new housing under the State Housing Law representing a total investment of

\$4,600,000, providing accommodations for more than a thousand families. This building, like the other Amalgamated houses, will be operated on the coöperative plan, with an initial payment by the tenant owners of from \$150 to \$250 per room and monthly rentals averaging \$12 per room. Some of the apartments will be available at even lower rentals. Both the construction and the management of the building will be supervised by Abraham E. Kazan to whose efforts much of the success of the Amalgamated Housing program is due.

The plans, recently announced by the architects, Springsteen and Goldhammer, provide for buildings in the form of a continuous structure with indented courts and a uniform cross section two rooms deep, insuring ample light and through cross ventilation for every apartment. The buildings will occupy only 51 per cent of the plot and every room in the square block of buildings will have windows on the street or court. Living rooms and many of the dining rooms will average 12 by 15 feet in size with a gross average floor area per room of 264 square feet. The buildings will surround a great central court 73 feet wide by 170 feet in length. This court surpasses in proportion the amount of space allotted for such purposes even in the most exclusive residential areas. It will be landscaped and will provide ample playground facilities. Because of the economies available under the State Housing Law it has been possible to provide automatic electric elevators, incinerators, and electric refrigeration, as well as steam heat, in the new building. The plans also provide for a small auditorium, a library, and a day nursery. The apartments will range from three to five rooms in size.

Bernard Baymond, the builder, anticipates that construction will be completed by the early fall.

GEORGE GOVE,

Secretary, New York State Board of Housing.



Prisoners in State and Federal Prisons and Reformatories.—By the Bureau of the Census. Washington: Government Printing Office, 1929. 20 pp. The results of the first annual census of prisoners, taken in 1926, are summarized in this bulletin. It covers all state prisons and reformatories, and the four federal civil prisons. It includes tables on the movement of prison population, comparative statistics as to inmates over a period of years, tabulations of offenses and sentences, etc.



Thomas Adams, for almost seven years general director of the Regional Plan of New York and Its Environs, has resigned from the directorship. Mr. Adams will remain as consultant to the Regional Plan Association, which has been organized for the purpose of promoting the progress of the regional plan and keeping the plan in step with changing conditions. George B. Ford has been chosen general director of the Regional Plan Association, of which George McAneny is president.



A Correction.—In a brief summary of a study recently made on how playgrounds affect values, which appeared on page 69 of the January issue, we inadvertently gave credit for the publication of an abstract of the study to the wrong magazine. The study was originally published in *Playground and Recreation*, to which we were indebted for leave to publish the summary.

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*The Chief Source of Information
on British Administration*

PUBLIC ADMINISTRATION

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